

JRPP No	2012SYW040
DA Number	DA0058/12
Local Government Area	Ku-ring-gai Council
Proposed Development	Demolition of eight (8) structures and construction of a 3-4 storey dementia care facility comprising 54 bedrooms, with basement car parking and ancillary site works. Consolidation of all lots excluding Lot 1 DP960051 and Lot 52 DP2666.
Street Address	2 – 10 Neringah Avenue South and 3 – 7 Woonona Avenue South Wahroonga
Applicant/Owner	Hammondcare
Number of Submissions	Twelve
Recommendation	Approval
Report by	Adam Richardson, Executive Assessment Officer

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	2 – 10 Neringah Avenue South and 3 – 7 Woonona Avenue South Wahroonga
LOT & DP:	Lots 52,54,55,56 DP 2666; Lot 2 DP585805; Lot 1 DP960051; Lots A & B DP420513; Lot 101 DP 844223
PROPOSAL (AS AMENDED):	Demolition of eight (8) structures and construction of a 3-4 storey dementia care facility comprising 54 bedrooms, with basement car parking and ancillary site works. Consolidation of all lots excluding Lot 1 DP960051 and Lot 52 DP2666.
DEVELOPMENT APPLICATION:	DA0058/12
WARD:	Wahroonga
APPLICANT:	Hammondcare
OWNER:	Hammondcare
DATE LODGED:	6 March 2012
ESTIMATED COST OF DEVELOPMENT:	\$13,870,443
ISSUES:	<ul style="list-style-type: none">- Heritage impact- Zone interface
PRE-DA MEETING:	Yes
SUBMISSIONS:	Yes
LAND & ENVIRONMENT COURT:	N/A
RECOMMENDATION:	Approval

LEGISLATIVE REQUIREMENTS

Zoning	2(d3) & 2(c)
Permissible Under	Ku-ring-gai Planning Scheme Ordinance (1971)
Relevant legislation	SEPP 1 – Development Standards SEPP 55 – Remediation of land SEPP (Hawkesbury – Nepean River 20) Ku-ring-gai Planning Scheme Ordinance
Integrated Development	No

HISTORY

Current application DA1000/10:

6 March 2012	DA lodged
16 March 2012 – 16 April 2012	Application notified.
4 April 2012	Correspondence sent questioning permissibility of project with regard to KPSO
4 & 9 May 2012	Deferral letters sent to applicant raising issues including contamination, s94 exemption, landscaping, urban design and heritage issues
31 May 2012	Applicant and Council meet to discuss issues
7 June 2012	Draft amendments provided to Council for consideration / comment
29 June 2012	Amended plans submitted in response to issues raised in Council's letters of May 2012

THE SITE

Zoning:	Residential 2(d3) and 2(c) (3 Woonona Avenue South)
Lot Number:	Lots 52,54,55,56 DP 2666; Lot 2 DP585805; Lot 1 DP960051; Lots A & B DP420513; Lot 101 DP 844223
Area:	4296m ²
Side of Street:	High Side
Cross Fall:	South-West to North-East
Stormwater Drainage:	To street (Woonona Avenue South).
Heritage Affected:	Yes – 3 Woonona Avenue South (local item); 14 Woonona Avenue South ('the Briars' – State listed item)
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

PURPOSE FOR REPORT

To determine Development Application 0058/12 for the demolition of five (5) structures and construction of a 3-4 storey dementia care facility comprising 54 bedrooms, with basement car parking and ancillary site works. The application also proposes the consolidation of all lots excluding Lot 1 DP960051 and Lot 52 DP2666.

The Joint Regional Planning Panel (JRPP) is the consent authority as a dementia care facility is a type of *'health related facility'* captured by the development category 'private infrastructure and community facilities' pursuant of Schedule 4A Clause 6 of the Environmental Planning and Assessment Act, 1979 and as the CIV for this development exceeds \$5 million (\$13.87 million).

THE SITE AND SURROUNDING AREA

The site

The development site compromises 9 allotments between Woonona Avenue South and Neringah Avenue South, known as 3, 5 and 9 Woonona Avenue South and 4, 6, 8, 10 and 12 Neringah Avenue South.

The entire site is owned and occupied by Hammondcare with the site currently serving as a small private hospital and respite facility. The bulk of the operations are within the existing hospital buildings which front Neringah Avenue South and known as 'Neringah Hospital'. It is understood that the site has served as a hospital / respite centre since World War 2.

The site has a total area of 10,768sqm, with a 133.5m frontage to Neringah Avenue South and 84.52m to Woonona Avenue South. The site is roughly 'T' shaped, due to the larger frontage to Neringah Avenue South.

The site contains various buildings, including the main hospital building on the Neringah Avenue side as well as ancillary service buildings and four former dwelling houses that are used in conjunction with the site operations.

One of the dwellings that comprise the development site includes 3 Woonona Avenue South, a listed, local heritage item under the KPSO.

More specifically however, the portion of the site being developed as part of this scheme includes those properties fronting Woonona Avenue South (3, 5 and 9 Woonona Avenue South). That portion of the site is 4295sqm in area and currently contains 3 detached dwelling's that are not currently occupied or used for residential purposes.

The area surrounding 3 Woonona Avenue South contains cottage gardens consistent with its heritage setting, the rest of the area to be developed is generally devoid of any significant trees and vegetation. Notably, the street tree plantings of deciduous Liquidambers have resulted in a tree lined footway that is the defining feature of the streetscape.

The site has as a significant but consistent cross fall from the southern to the northern boundary as the site extends away from the ridgeline of the Pacific Highway.

Surrounding development

Surrounding development is a mixture of different architectural styles, landuses and densities.

On the Neringah Avenue South frontage, a mixture of medium density development exists along with single dwellings on large, landscaped allotments. The local area is undergoing transformation into a medium density residential precinct consistent with the zoning as it is on the periphery of the Wahroonga Local Centre.

On the Woonona Avenue South frontage, development is of a lower density, than on the Neringah Avenue South frontage, notwithstanding Abottsleigh Junior School on the opposite side of the road, just north of the development site.

No. 14 Woonona Avenue South, comprises a State listed heritage item, known as 'the Briars', which is a detached cottage built in 1895.

The below aerial photograph highlights the entire Neringah Hospital campus, with the circled area indicating the location of the proposed dementia facility.



Red line – development site; Blue circle approximate location of new dementia care facility.

THE PROPOSAL

The proposal, as amended, is for the demolition of 5 major structures on site (including dwelling houses and redundant ancillary hospital buildings), 3 ancillary garages and the construction of a 3-4 storey 'T' shaped building containing 54 bedsit style rooms for use as a dementia care facility.

Along with the 54 bedsit rooms, the building also provides for communal living areas, kitchen and laundry areas, with the internal floor layout broken up into a series of 'households', being 9 bedsit rooms organised around a common kitchen and living area. Additional areas within the building also include administration and staff facilities as well as a basement car park for 21 vehicles (with the basement also including a dedicated loading dock and an ambulance bay).

External works also include significant landscaping of the site which extends into the curtilage of 'Woonona Cottage' as well as formalised pedestrian walkways so as to integrate the care facility with the respite facilities currently provided within 'Woonona Cottage'.

CONSULTATION - COMMUNITY

In accordance with DCP No. 56 – Notification, owners of adjoining properties were given notice of the application on 16 March 2012. In response, Council received twelve (12) submissions, from the following:

1. William Harvey – Unit 10 15-17 Woonona Avenue South, Wahroonga
2. William Caldwell – 18 Woonona Avenue, Wahroonga
3. Sue O'Keefe – Unit 4 15-17 Woonona Avenue South, Wahroonga
4. Fred Bowman – 14 Everett Way, Wahroonga
5. John & Libby Fuller – 'The Briars' 14 Woonona Avenue, Wahroonga
6. Eric Adcock – Unit 2 16 Woonona Avenue South, Wahroonga
7. Majorie & Ian Howden – Unit 5, 17A Woonona Avenue, Wahroonga
8. M. Arnett – Unit 1, 17a Woonona Avenue South, Wahroonga
9. Craig Brooking – PO 751, Wahroonga 2076
10. Anthony Kelly – Unit 44, 3-13 Bundarra Avenue South, Wahroonga
11. Margaret Bartlett – Unit 1, 16 Woonona Avenue, Wahroonga
12. F.H.W Elsley – Unit 9, 3-13 Bundarra Avenue South, Wahroonga

The submissions raised the following issues:

A formalised pedestrian path through the site linking Woonona Avenue South and Neringah Avenue South should be provided. Currently, a path through the site exists and any scheme to redevelop the site should include this important link.

Several of the submissions made to Council have raised concerns with this point. Currently an informal path through the site linking both street frontages does exist, with this path winding its way around the various buildings and level changes through the site.

Whilst this path exists, it does so on an informal basis, with no legal right of public access over the site or path. In accessing the site and the path as a means of a 'short cut' to the Wahroonga Local Centre, the local residents could in fact be trespassing, as they have no legal right to access the site in this way. It is acknowledged that to date the landowners have not restricted this access but could do so at any time.

The submissions made to Council advocate that Council, as part of the assessment process ensure that this public access is maintained and enhanced. As the land is in

private ownership and no rights of way or right of access currently exist, no mandate exists in which Council can impose the provision for a pedestrian path. Council has suggested that the scheme include a pedestrian path, however, given the liability issues that this presents for the land owner, this has been rejected.

The proposed development will result in a significant increase in traffic volumes within the local street network and will also place significant demand for on street car parking, which is already over prescribed.

The proposed development has been supported with a traffic report, which concludes, that the type of use as a dementia hospital will not result in a significant increase in traffic volumes within the surrounding street network. In terms of car parking, the developments basement has been designed to accommodate 21 car spaces as well as space for an ambulance and separate loading dock, which for the type of use is more than adequate (as residents of the development do not have cars, with parking needed to accommodate staff and visitors).

The traditional views from 'the Briars' will be dramatically affected. Deep soil planting of evergreen trees should be provided to soften the built form.

The extent of impact upon 'the Briars' and for that matter the other surrounding heritage items has been considered by the applicant within a comprehensive Heritage Impact Analysis (HIA). This HIA has been considered by Council's Heritage Advisor, who is satisfied with the likely level of impact on adjoining heritage items. Furthermore, the development has been supported by a comprehensive landscaping scheme that provides for a mixture of evergreen and deciduous plantings that will both screen and complement the setting.

CONSULTATION – EXTERNAL TO COUNCIL

Ausgrid

Council, by way of letter dated 16 March 2011, notified Ausgrid of the development proposal. To date, no response has been received from Ausgrid.

CONSULTATION - WITHIN COUNCIL

Urban design

Council's Urban Design Consultant, has provided Council with a comprehensive urban design analysis of the development as well as detailed assessment of how the proposal would sit and function within its local context and streetscape. The conclusions of the Urban Design Consultant support the proposed development and its design. The assessment was based loosely on the principles of SEPP No. 65 as they were recognised for their focus on amenity, a core function of the services provided within a dementia care facility.

Notwithstanding this, in supporting the proposal, the Urban Design Consultant recommended that the proposed dementia car facility be better integrated with 'Woonona

Cottage' and that part of the development scheme, should it be supported, be done so subject to conservation works to the identified heritage item (**Condition 45**).

These recommendations were discussed with the applicant whereby improved integration with the proposed development and 'Woonona Cottage' were achieved through a pedestrian link between the two buildings (noting that secure separation of the dementia facility is necessary for safety and security reasons), as well as integrated landscaping between the two buildings that reinforces the linkage between the two buildings.

In the case of the suggested conservation works, this suggestion has been considered by Council's Heritage Advisor in their assessment. Conservation works are discussed within the Heritage Advisor's comments elsewhere in this report.

Landscape

Council's Landscape Assessment Officer commented on the proposal as follows:

Tree impacts

Tree 10 – Ginkgo biloba (Maiden-hair Tree)

Tree 10 is 10 metres high in good health and its removal is not supported. No amendments to the proposal will be required as it is located beyond the scope of building works. A condition will be imposed to retain the tree.

No objection is raised to the removal of the following trees;

Tree/Location

*Tree 2 – Liquidambar styraciflua (Liquidambar)
/ Woonona Ave nature strip north western side of
new driveway*

*Tree 9 – Chamaecyparis obtusa (Hinoki False
Cypress)*

*/ Western (front) boundary
Ginkgo biloba (Maiden-hair Tree)
/ Western (front) boundary*

*Tree 11 – Unidentified rainforest species
/ Western (front) boundary*

*Tree 12 – Cupressus species (Cypress)
/ Western (front) boundary*

*Cupressus species (Cypress)
/ Western (front) boundary*

*Tree 16 – Brachychiton acerifolius (Flame Tree)
/ Eastern (rear) boundary*

*Tree 42 – Cupressocyparis x leylandii (Leyland
Cypress)
/ Within the building footprint*

Tree 43 – Lophostemon confertus (Brushbox)

Comments

*17 metres high with good
vigour past branch failure
in upper canopy as a result
of unstable branching
structure*

*8 metres high in fair
condition*

*9 metres high in fair
condition, suppressed
canopy*

*9 metres high in fair
condition*

*9 metres high in poor
health*

*9 metres high in poor
health*

13 metres in fair condition

*11 metres high in good
condition*

14 metres high in fair

/ Eastern (rear) boundary	condition
Tree 44 – <i>Stenocarpus sinuatus</i> (Firewheel Tree) / Eastern (rear) boundary	9 metres high in good condition
Tree 45 – <i>Archontophoenix alexandrae</i> (Alexander Palm) / Eastern (rear) boundary	9 metres high in good condition
Tree 46 – <i>Jacaranda mimosifolia</i> (Jacaranda) / Within building footprint	14 metres high in good vigour, suppressed canopy
Tree 47 – <i>Archontophoenix alexandrae</i> (Alexander Palm) / Within building footprint	9 metres high in good condition
Tree 48 – 9 x <i>Podocarpus falcatus</i> (Common Yellowwood) / Eastern (rear) boundary	15 metres high with good vigour, suppressed canopies. Planted at 1 to 1.5 metre centres
2 x <i>Photinia</i> sp (Hawthorn) / Northern side boundary	5 to 6 metres high in good health
2 x <i>Cupaniopsis anacardioides</i> (Tuckeroo) / Northern side boundary	7 metres high in good condition
<i>Alectryon tomentosus</i> (Rambutan) / Northern side boundary	5 metres high in good condition

Landscape plan/tree replenishment

The revised landscape plan is acceptable, subject to the following amendments;

- Tree 10 – *Ginkgo biloba* (Maiden-hair Tree) shall be retained.
- 5 x *Ceratopetalum gummiferum* (NSW Christmas Bush) planted along the north eastern side of the driveway are to be replaced with *Tristaniaopsis laurina* (Water Gum) or *Hymenosporum flavum* (Native Frangipani) or *Franklinia axillaris* (Gordonia).
- A canopy tree that attains a minimum height of 13 metres shall be planted on the eastern side of Woonona Cottage to replace the recent removal of Tree 17.
- The *Liquidambar styraciflua* (Liquidambar) to be planted on the nature strip to replace the removal of Tree 2 shall be included in the plant schedule. The planted specimen shall have a minimum pot size of 75 litres.
- To maintain the existing landscape amenity of Woonona Cottage the 1x CF and 1 x PS shall be replaced with evergreen species that will attain a minimum height of 8 metres.
- To maintain the existing landscape amenity of Woonona Cottage additional screen planting that will attain a height of 4 metres shall be planted along the southern edge of the new building.
- To minimise the impacts of the development on the streetscape 3 evergreen trees including species such as *Syncarpia glomulifera* (Turpentine), *Waterhousia floribunda* (Weeping Lillypilly), *Syzygium floribundum* (Weeping Lilly Pilly), *Syzygium francisii* (Francis Water Gum), *Arbutus unedo* (Irish

Strawberry Tree), *Metrosideros excelsa* (New Zealand Christmas Tree) are to be planted within the front setback forward of the proposed building.

- The proposed planting of 25 x (AS) *Acer palmatum* 'Atropurpureum' (Japanese Maple) within the planter boxes on the ground, first and second floor terraces are unlikely to survive. They are to be replaced with a hardy species that can adapt to a confined soil area and limited soil moisture.

The amendments are included in **Condition 6** of the recommendation.

Stormwater plan

The stormwater plans are considered acceptable in relation to landscape issues subject to the following amendment;

- To preserve Tree 1 - *Liquidambar styraciflua* (Liquidambar) located on Woonona Avenue nature strip on the northern side of the new driveway the trench for the installation of the stormwater pipes across the nature strip shall be dug by hand. No roots greater than 30mm in diameter shall be severed or injured.

Conclusion

The Landscape Assessment Officer finds the proposal acceptable in relation to landscape issues.

Heritage

Council's Heritage Advisor commented on the proposal as follows:

Amended scheme

With respect to the adjacent heritage building "Woonona Cottage" the amended scheme primarily alters the floor plan of the southern end of the building by relocating a bedroom. This results in increasing the garden area to the north façade of the heritage building. A path is also introduced from the lower terrace area of the proposed development to the verandah of the heritage building. The landscape scheme has been amended with different plants used to screen the development from the heritage building.

Heritage Impact Statement

The applicant has prepared a supplementary heritage report which addresses the following design changes:

- further articulate the southern elevation facing Woonona Cottage;
- relocate the adjacency of the southern wing to Woonona Cottage further to the east, and away from the cottage;
- open up the northern outlook from the northern verandah of Woonona Cottage; and

- increase the area of the open space on the northern side of Woonona Cottage.

The supplementary report claims that the amendments further respect the heritage significance of Woonona Cottage by:

- reducing the bulk of the southern wing achieved through articulation of the southern elevation;
- reducing the perceived scale of the southern wing through row plantings of trees adjacent to the southern elevation; and
- increasing the area of the lawn and garden in the open space to the north of Woonona Cottage.

Comments on amended scheme

From a heritage perspective, the difficulty with the proposed development is the impact of the new building on the setting of the adjoining item, intrusion of the new building into the curtilage of the item, the relationship between the new building and the heritage item and a lack of conservation works to the item.

The amended scheme attempts to integrate the heritage building into the development by linking it via a path and ultimately proposes amalgamating the three sites in Woonona Avenue. The applicant has attempted to address this by further articulating the southern façade of the building so that the perception of open space between the bulk of the development and the heritage building is increased and by providing screen planting. There is still some conflict with the scale and location of the proposed building and the relationship between the buildings.

Relocation of a bedroom on the southern side of the proposed building has resulted in a decreased setback from the heritage building by 1.7m (scaled from the eastern end of the verandah to the closest point of the development). The sitting area of the development now has a setback from the closest point of the verandah (eastern end at rear of the building) varying from 8.8m to 9.8m and the eastern bedroom wall varies between 7m to 7.7 m from the closest point of the verandah. The height of the proposed development has not been amended. The bulk is unaffected. The proposed building is still 3 storeys near the heritage building and intrudes into its curtilage a further 2.5m.

The proposed hospital development now extends into the heritage listed site almost 11.5m. The southern wing of the building is 3 storeys and has a terrace area excavated about 1m below the existing ground line. Although the eastern end of the proposed building is physically closer to the heritage building, the amendment does increase the garden area between the northern verandah of the item and the proposed development by about 20%. The introduction of a path and revised plantings attempts to “open-up the northern outlook from the northern verandah”. This appears to be a response to increase the dialogue between the heritage item “Woonona Cottage” and the proposed development.

The amended scheme separates the proposed development further from the northern elevation of the item and would to some extent; “open-up the northern outlook from the northern verandah”. If completed, the views to and from Woonona Cottage from Woonona Avenue would be “opened up” and provided the proposed plantings achieve the intended screening the existing cottage character of the building should not be diminished.

The basement carpark extends into the heritage site and occupies about 55% of the garden area on its northern side and is located about 1.5m from the verandah. The amount of soil over the proposed carpark slab varies but appears to be sufficient to support the proposed planting. Further advice from Landscape Services will be required to confirm this. The applicant has demonstrated it is technically possible to construct the basement carpark without damaging the heritage building.

In terms of acceptability of materials and colours with Woonona Cottage and other nearby heritage items, the variations of material and colours are considered acceptable.

*The application does not propose any conservation works to the heritage buildings or include a heritage conservation plan of how to manage the item in the future. The existing use of the item as a respite care facility is proposed to be retained. As noted in my earlier comments, it is unclear when the current use of the building commenced. However, if an application to use a heritage building for a new use is made, it is generally required that a heritage conservation management plan is prepared for the item and any conservation works outlined in the plan are undertaken. This is recommended via a condition of consent (**Condition 45**).*

It is considered that the proposed development would have low impacts on the other nearby heritage items. The nearby brick water reservoir is a large infrastructure element and it is sufficiently separated from the site and any impacts would be mitigated.

The applicant has not provided any further information on how the proposed building form responds to the State listed heritage item “The Briars”. The amended design of the southern wing and the garden area to the south have been undertaken to respond to the adjoining item “Woonona Cottage” and would provide no perceived change or benefit to “The Briars”. However, the item is separated by a roadway and located behind a small local park (yet to be completed). Views to it would not be affected by the development but views from it would have minor impact. This impact is partially mitigated by the physical separation provided by the park, the roadway and the design of the building. The T-shaped plan of the proposed development results in the bulk of the building being set back towards the rear of its site (about 27m from the road boundary) with only the entry component being close to the street boundary. Impacts from the proposed development on “The Briars” are relatively low.

Consideration of the proposed development against DCP 55

The proposed hospital development is not development covered by DCP 55. However, given the context and setting of the development, it is reasonable to give regard to the proposal against the heritage controls of the DCP so as to help determine its acceptability.

C – 1 new development should respect the predominant architectural character of the UCA and be designed with reference to it. Major issues are massing, style, roof pitch and complexity of roof shapes, proportions of doors and windows, materials and colours

Comment: The proposed building is clearly contemporary and its design is related to its hospital use and not directly related to the majority of buildings in the UCA which are primarily houses, flat buildings and some institutional buildings.

C – 2 Facades well articulated to avoid long continuous facades.

Comment: The proposed building is long – about 48m but is articulated in T-shaped plan with substantial setbacks on the north and south. The southern elevation which adjoins the heritage building is further articulated in the amended design.

C – 3 Scale and massing should be proportioned to respect and enhance character of adjacent development.

Comment: The development in Woonona Avenue is largely residential in character and different to the proposed hospital use of the facility. The scale is less than otherwise possible on sites zoned 2(d)3.

C – 4 Form and outline of new development to respect existing development, particularly roof forms.

Comment: The roof form is low pitched and generally hipped in form. The pitch is lower than the surrounding housing, but not inconsistent with the more recent medium density residential development in the area.

C – 5 Setback should not be located forward of existing development.

Comment. The setback of the entry component is 7300mm but the main façade is set back 10470mm. This is slightly forward of the nearby development.

C – 6 Buildings should not be orientated across a site contrary to the existing lot pattern.

Comment: The proposed new building is relatively long and orientated across 3 existing lots. It is designed with a T-shaped central projecting entry

with the bulk of the building setback which articulates the facade to some extent.

C – 7 Development should be good contemporary design complimentary to the existing UCA.

Comment: The proposed development is of contemporary design.

C – 8 Different building materials should be chosen for external finishes and the colour range should blend with existing development

Comment: The materials include face brick, panels of glazed bricks, painted metal and timber finishes and some sandstone for the fence. Roof material is a prefinished metal. These materials and colours are found in the surrounding area and considered acceptable.

C – 9 Colours and building textures to be complimentary to UCA

Comment: The colours and building materials are considered consistent with the surrounding area.

C – 10, 11 & 12 Front fences to be compatible with existing and neighbouring sites. If existing fences contribute to overall UCA, they should be retained. If the existing fences are unsympathetic they should be removed and replaced with more appropriate type.

Comment: The application proposes retaining the stone fences in front of the heritage building and extending it along the street frontage which is considered acceptable.

Design Controls for development within the vicinity of a heritage item

C – 1 Setbacks from the heritage item must be a minimum of 10m for the first and second floor and 15m at the third and fourth floor levels.

Comment: The proposed development is set back from the heritage building a minimum of 7m and the retaining wall for the ground floor terrace area is about 8m (scaled) from the verandah of the heritage building at 3 Woonona Avenue South. This is less than required for a RFB which requires a minimum of 10m. However, the actual non-compliance is towards the rear of the heritage item and the area of non-compliance is only about 20% of the side elevation. Most of the side elevation of the building is well in excess of the minimum of 10m.

The proposed development is not stepped back above the first floor and does not achieve a minimum setback of 15m. The front setback of the building is similar to the front setback of the heritage item.

C- 2 – Screen plantings should achieve visual screening with a height of at least 4 meters along the boundary of the adjoining items.

Comment: The landscape plan has been amended and indicates low shrubs that achieve 2m in height and trees that achieved up to 8m in height along the southern elevation of the proposed building.

Landscape Services will comment on the success of the scheme, but it appears to achieve a high level of planting which would assist in screening the proposed building from the heritage item.

C – 3 – The new development should respect the aesthetic character of nearby heritage items but should not mimic design features or motifs.

Comment: This is achieved.

C – 4 – Colours should be complimentary to heritage items.

Comment: The colours are considered acceptable.

C – 5 – The front fence should be no higher than the front fence of the heritage item.

Comment: the front fence follows the design and height of the stone fence on the heritage item.

C – 6 – A heritage impact statement must be submitted and should discuss any impacts on the item including its garden and setting.

Comment: The application has included a HIS.

Conclusion

The amended scheme still results in considerable intrusion into the site of the heritage item “Woonona Cottage”. The amended scheme has increased the outlook from the verandah of the item by about 25%. However, only a small part of the proposed building (less than 20%) is less than 10m from the verandah of the heritage item. Due to the T-shaped design, most of the heritage item is physically separated (about 24m) from the entry area/dining area and the building above it. Thus the perceived intrusion of the proposed development into the setting of the heritage item is reasonably low. The analysis against DCP 55 has been done primarily for information.

The amended scheme has tried to respond to this issue, has amended the floor layout of the southern wing and attempted to open up the garden area between the northern verandah of the item and the proposed new building, link the two buildings together and provide an improved garden setting.

*It is recommended that a conservation management plan (**Condition 45**) be prepared for the heritage buildings and all works recommended to be undertaken to ensure conservation of the buildings be undertaken as part of the scheme.*

In conclusion it is considered the impacts on the nearby heritage items and the adjoining heritage item is low and acceptable.

Engineering

Council's Development Engineer commented on the proposal as follows:

Lot consolidation

*The applicant proposes to consolidate the lots which will contain the new building and the existing hospital. It is Council's usual practice to require the consolidation to be registered prior to issue of the Construction Certificate, to prevent the placement of structures across property boundaries. This condition is included in the recommendation (**Condition 23**). Council does not need to endorse plans of consolidation.*

Submissions have been received in relation to the path which currently provides access from Woonona Avenue South to Neringah Avenue South through the existing hospital. This path does not have the appearance of a public right of footway and there is no evidence to suggest that such a right exists. Therefore Council is unable to require a pathway to be maintained for access through the site.

Stormwater

Under Council's DCP 47 Water management, the development is Type 6. The proposed built-upon area is 56% of the site area, so the calculation of Site Storage Requirement (SSR) using 60% of the site area (not 100% as required under Section A5.1g(iv) of DCP 47) is acceptable.

The stormwater concept plans show a combined detention/ retention tank under the driveway, with discharge to the gutter in Woonona Avenue. A BASIX Certificate is not required for this development. Re-use of retained roofwater is not specified, but given the use of the development (nursing home) is likely to be for irrigation only. The stormwater concept plans show that 75 cubic metres of detention storage are provided, which means a concession of 8% has been deducted from the SSR. This is acceptable under Section 6.7.2 of DCP 47.

Traffic and parking

The application has been lodged under the KPSO, although the documentation also gives regard to SEPP (Housing for Seniors or People with a Disability) 2005.

Under Section 3.1 of Council's DCP 43 Car parking, parking provision for the development would be determined under "Hostels, nursing and convalescent homes". The DCP provides for the following recommended parking provision" - one

parking space per 10 beds for visitors plus 1.5 spaces per 2 employees. That is, a total of 19 spaces as well as one space for an ambulance.

Were the development to be made pursuant of SEPP (Housing for Seniors or People with a Disability), the development would generating parking at a rate of 1 space per 15 beds (dementia care only) plus 1 space per 2 employees. That is, a total of 13 spaces as well as one for an ambulance.

The provision of 21 spaces plus an ambulance space satisfies both these policies. The amount of car parking to be provided in conjunction with the development is assessed as being satisfactory.

The construction of a new driveway crossing and layback is likely to require the raising of the road shoulder as has been done for other properties in the street. This will be determined by Council's Driveways Inspector when issuing levels for the new crossing. The removal of Tree 2 and the very flat nature of the driveway will assist with vehicular access across the nature strip.

Waste management

The Waste Management plan indicates that it is intended to use Council's service for the collection of garbage and mixed recycling (not paper, green waste or contaminated waste).

*A waste storage and collection area is provided in the basement. It appears that there is sufficient headroom for the small waste collection vehicle to enter the basement to collect garbage and mixed recycling, and adequate space for standing and turning. Council will also accept the engagement of a private contractor for all waste collection for this type of development. A condition is recommended that an easement for waste collection be created over the property, so that Council is indemnified if necessary (**Condition 85**).*

Construction traffic management

Construction vehicle access from Neringah Avenue is proposed, by means of a temporary access road.

A works zone is proposed on the Woonona Avenue frontage. This is supported and is included in the recommended conditions, subject to Traffic Committee approval.

Although not specifically addressed in the Construction Traffic Management Plan, because of the location of the site in the same street as Abbotsleigh Junior School, a condition is recommended that no truck movements occur in Woonona Avenue or Warwilla Avenue during school drop-off (8.00am to 9.30am) and pick-up (2.30pm to 4.00pm) times. This will still allow for continuous concrete pours, provided access is directly to and from the Pacific Highway and Neringah Avenue.

Council infrastructure

*A condition is recommended that a footpath be provided for the frontage of the development along Woonona Avenue (**Condition 40**). Construction details for the footpath are to be submitted to Council and approved under the Roads Act prior to the issue of a Construction Certificate.*

Geotechnical and environmental investigation

*Both reports contain recommendations for further investigation including potential groundwater inflows and the possible underground storage tank. Conditions are included requiring compliance with the recommendations contained in these reports (**Conditions 11 & 56**).*

The geotechnical report does not specifically address the integrity of the heritage item, but does contain recommendations for shoring of the excavation where it will be in close proximity to settlement-sensitive structures or services. In addition, a letter from Cardno has been provided, dated 31 January 2012, which contains specific recommendations for shoring adjacent to Woonona Cottage.

STATUTORY PROVISIONS

State Environmental Planning Policy No. 1 – Development Standards

The proposed building is to be located at 3, 5 and 9 Woonona Avenue South. Numbers 5 & 9 Woonona Avenue South are zoned under the KPSO as 2(d3), whilst 3 Woonona Avenue South is zoned 2(c) (with this zoning consistent with the heritage listing of that site). Adjoining the development site at the northern boundary, 15-17 Woonona Avenue South is also zoned 2(c). This sequence of zonings along Woonona Avenue South results in the development site having a zone interface on its northern boundary and a zone interface within its boundaries (between 3 & 9 Woonona Avenue South).

The development proposed extends across 3 allotments, which have two different zonings, which is permissible.

Clause 25L of the KPSO disrupts seamless development across the 3 allotments, despite the permissibility. Clause 25L states:

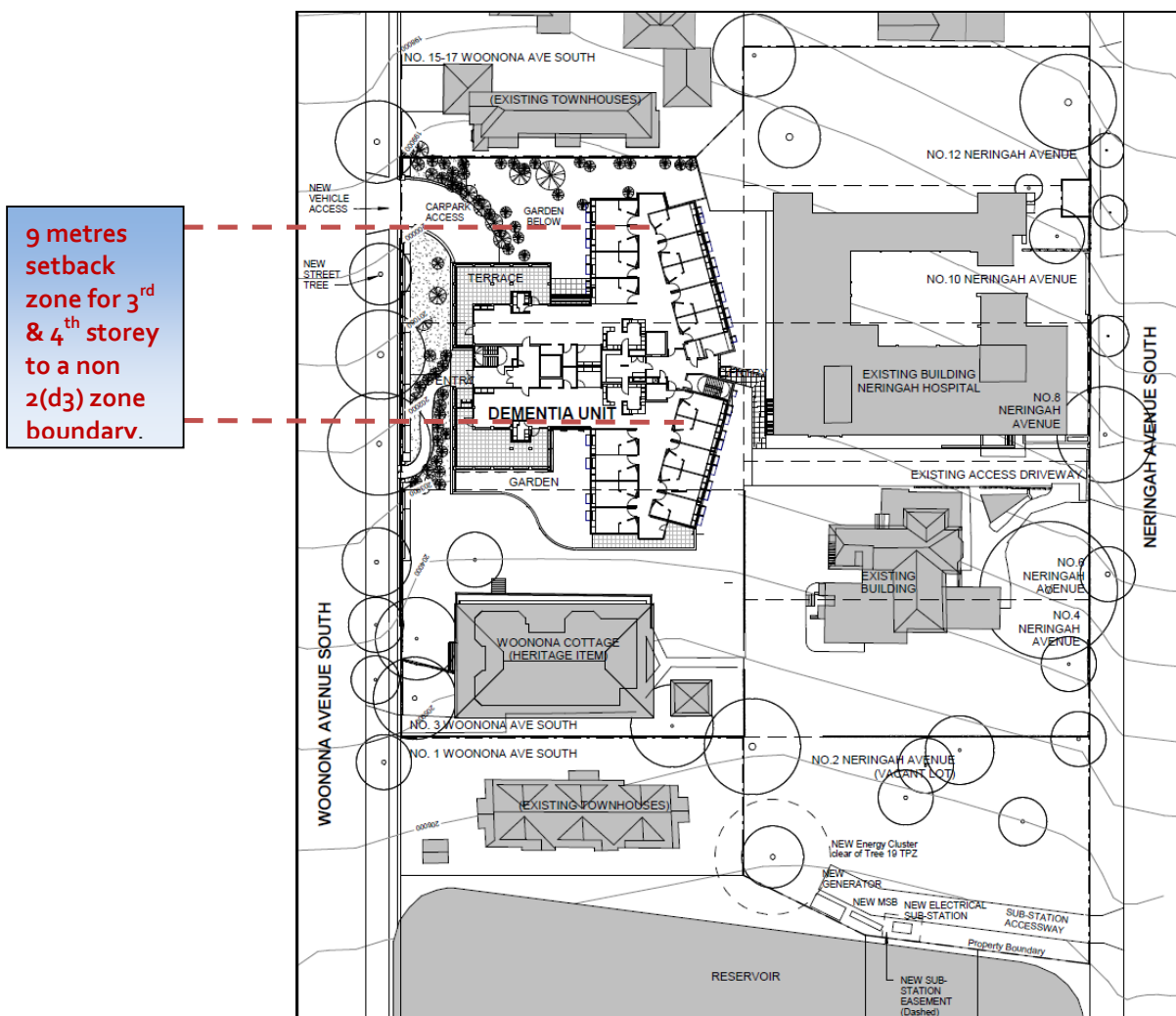
25L Zone interface

- (1) The objective of this clause is to provide a transition in the scale of buildings between certain zones.*
- (2) The third and fourth storey of any building on land within Zone No. 2(d3) must be set back at least 9m from any boundary of the site of the building with land (other than a road) that is not within Zone No. 2(d3).*
- (3) Landscaping is required to screen development from any adjoining property must be provided on the site and must not rely on landscaping on the adjoining property.*

The applicant seeks to vary the zoning interface development standard stipulated in Clause 25L.

Clause 25L(2) requires the 3rd and 4th storey component of a development at the zone interface to be set back 9 metres from the boundary with the 2(c) zone. As designed, the development encroaches into the zone interface controls between 3 and 5 Woonona Avenue South and 9 and 15-17 Woonona Avenue South. The extent of non compliance relates to the third storey of the proposed dementia care facility.

The below diagram highlights the extent of non-compliance with the zone interface control at both the north and south interface:



The development, whilst extending across the three properties (and two zonings) has been designed with the regard to the zone interface control, despite the variation proposed.

This has been achieved through the proposed dementia care facility being designed as a 3 / 4 storey building, with the top storey being set back well in excess of 9m from the zone interface.

The encroachment into the 9m zone interface is limited to the 3rd storey of the building only (as the zone interface control only applies to the 3rd and 4th storeys). The variation to the northern zone interface relates to a floor area of 40sqm (with a minimum setback of 5.35m or 3.65m variation into the setback). The variation to the southern zone interface (or the interface with the heritage item that comprises part of the site) relates to a floor area of 252sqm (with the building extending 9m over the zone boundary – representing an 18m variation).

The applicant has submitted an objection pursuant of SEPP No. 1 to Council, arguing why it is unreasonable or unnecessary to comply with the zone interface development standard.

SEPP No. 1 establishes a general principle that a development standard maybe varied where strict compliance can be shown to be unreasonable or unnecessary or would tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979.

Whether the planning control in question is a development standard

Clause 25L of the KPSO is a development standard as the control does not ‘prohibit’ the development if it were not complied with, nor is the control a ‘pre-condition’ for development to occur.

The underlying object or purpose of the standard

Clause 25L provides for the following objective: ‘(1) The objective of this clause is to provide a transition in the scale of buildings between certain zones’. In essence, the objective seeks to ensure that a suitable transition in scale between developments is achieved, especially where the interface between the different types of development that occurs in the higher and lower density zones.

Whether compliance with the development standard is consistent with the aims of this policy, and in particular whether compliance with the development standard would tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979

The objects of the Act are to:

(a) to encourage:

- (i) the proper management, development and conservation of natural and artificial resources, including agriculture land, natural areas, forests, minerals, water, cities, town and villages for the purpose of promoting the social, and economic welfare of the community and a better environment.
- (ii) the promotion and co-ordination of the orderly and economic use and development of land.

The applicant submits that the setback variation facilitates the redevelopment of the site in a manner that appropriately responds to the character of the locality and is therefore

considered to be consistent with the criteria and objectives of Section 5(a)(i) and (ii) of the Act.

It has also been submitted that strict compliance with the development standard would not result in discernible benefits to the residential amenity of the residents of the proposal, nor would the amenity of the residents adjoining the development be greatly improved were compliance achieved. This is particularly evident in the case of the zone interface variation with 3 Woonona Avenue South, as the dementia care facility will be used and operated in conjunction with the respite facilities currently provided for within 3 Woonona Avenue South.

Whether compliance with the development standard is unreasonable or unnecessary in the circumstance of the case

It has been submitted by the applicant that compliance with the zone interface setback control is unreasonable or unnecessary in the circumstance of the case for the following reasons:

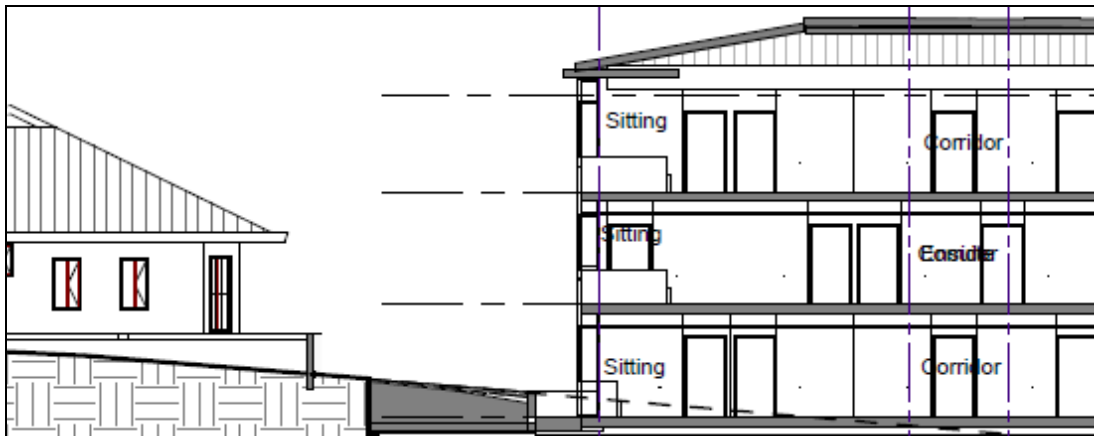
- I. The building is "T" shaped so that the bedroom wings (aligned north/south) which encroach into the zone interface setback are the thinnest part of the proposed building, thereby minimising the extent of variation. Design in this manner has allowed other part of the building not associated with the bedroom wings to be setback more that the zone interface control requires.*
- II. The "T" shaped built form provides for a front setback that is consistent with the established front setback of the street, however the majority of the building is set back beyond this (up to 27.5m). The variable front setback combined with extensive landscaping retention of street tree plantings ensures that the established landscape character within the streetscape is maintained.*
- III. The proposed building is for a part 3 / 4 storey structure, most of which is located within the portion of the site that is zoned 2(d3). This zoning under the KPSO allows development to 5 storeys, generally associated with residential flat buildings. This proposal is for a smaller built form with markedly stepped setbacks than would be applied to a residential flat development and is assessed as being eminently less visually impacting than an alternative 5 storey residential flat building on No 5 & 9 Woonona Avenue South. The below photomontage provides for a visual representation of the proposed development against an indicative building envelope of an alternate, complying residential flat building.*



- iv. *The 1st and 2nd floors of the proposed development achieve an average setback of 6m to the northern boundary which is consistent with the setbacks that would be applied to a residential flat building. Variation to the zone interface control is limited to the 3rd floor, as the 4th floor is setback 14m to the northern boundary which exceeds the 9m minimum setback requirement of the zone interface control. The variation sought to the development standard by the non-compliant 3rd floor comprises a gross floor area (GFA) of 40.7m² or only 1% of the total GFA.*
- v. *The 3m encroachment into the zone boundary set back at the northern boundary is limited to the bedroom wing of the building which has a depth of 16m. The remainder of the building (for a depth of 17m) steps back away from the northern boundary up to 21m from the boundary, which is far in excess of the control. As an average, the building setback proposed to the northern zone interface is more than would be required for a 'compliant' residential development.*
- vi. *The proposed setback area adjacent to the northern end of the building is available for deep soil planting. Accordingly this part of the site is proposed to contain a mix of landscaping which soften and screen the development when viewed from the adjoining townhouses at 15-17 Woonona Avenue South.*
- vii. *A reduction in the number of bedrooms within the development to achieve technical compliance to the northern zone interface would result in a loss of 2 bedrooms from the third storey. The design philosophy behind the proposal relies upon the provision of 9 bedrooms per "household" to achieve both a homely environment for residents and an economically viable facility. The inherent design requirements for such a specialised aged care facility e.g. sight lines between bedrooms and staff areas does not permit displacement of the bedrooms elsewhere on the site to achieve a compliant development.*
- viii. *The building is located on the southern side of No 15-17 Woonona Avenue South. This eliminates shadow impact from the new development upon the 15-17 Woonona Avenue South. Conversely the shadow impact of the two storey townhouses will not*

impact on the primary communal living areas/terraces of the dementia care facility which are setback 15.3m from the boundary.

- ix. *Woonona Avenue South slopes from ridge of the Pacific Highway down towards the Northern rail corridor at the bottom of the street. The prevailing topography reduces the extent of the height difference between the proposed development and Woonona Avenue South at the development's southern end, which intun limits the scope and impact on the non-compliance with the zone interface control at the buildings southern end. The below section illustrates that the second storey ceiling height of the dementia care facility is only slightly above the eave height of Woonona Cottage (at 3 Woonona Avenue South) so that the 3^d storey achieves a ceiling height which not dissimilar to the ridge height of the cottage. The roof height of the new facility is pitched to minimise bulk/height so that the building does not visually overpower the cottage uphill.*



- x. *The setback non-compliance at the southern end of the proposed building relates to 3 Woonona Avenue South which is owned by HammondCare, the owners and proponent of the development application being considered. The cottage is currently used as part of the respite facilities provided as part of the Neringah Hospital campus and is integrated and linked with the proposed dementia care facility. Accordingly the impact of the proposal's encroachment into the zone interface is lessened than were it an unrelated private residence under separate ownership. The two buildings will in fact complement each other in terms of providing a variety of accommodation facilities for residents and family of the dementia care facility.*
- xi. *The setback encroachment at the southern zone interface is confined to the southern bedroom wing. The majority of the building steps away from the southern boundary resulting in a >20m building separation between the proposed development and Woonona Cottage and where the building steps back from the bedroom wing provides for a compliant 9m setback to the zone interface. This results in only a small portion (a depth of 17m in a 36m deep building) of the building being located within the setback zone. It has been submitted the impact of this is muted as the proposed development and heritage building are to be integrated and operate in conjunction*

with one another, absolving the strict need for compliance with the development standard in that regard.

- xii. Clause 25L of the KPSO requires that the third (or fourth) storey “of any building on land within Zone No 2 (d3) must be set back at least 9 metres from any boundary of the site of the building with land (other than a road) that is not within Zone No 2(d3)”. The subject proposal involves the consolidation of 3 Woonona Avenue South with the adjoining Nos 5 & 9 Woonona Avenue South so that the lot boundary will cease to exist. While the zoning boundary will not change with the consolidation, the removal of the lot boundary of the site could be construed as not requiring compliance with the control.*
- xiii. No 3 Woonona Avenue is zoned Residential 2(c). This zoning permits (with consent) the erection of a hospital. The KPSO definition of hospital includes the type of accommodation to be provided within the dementia care facility which is in effect a nursing home, being accommodation for frail/aged persons with dementia. Notably the KPSO contains no development standards which limit building height of a hospital within the Residential 2(c) zone, or for that matter the 2(d3) zone. Accordingly, the control seems to focus on forms of development not related to this proposal (residential flat developments) and subsequently the need for compliance with the standard is diminished.*

Whether the objection is well founded

The submitted SEPP 1 objection is assessed as being well founded, noting that it accurately cites the development standard to be varied, it clearly establishes the context in which the variation is proposed and it provides sufficient reasoning and justification for not needing to strictly comply with the development standard. In this regard the objection is supported, as is the variation to the zone interface development standard in Clause 25L of the KPSO.

State Environmental Planning Policy No. 55 - Remediation of Land

The provisions of SEPP 55 requires consideration of the potential for a site to be contaminated.

In accordance with SEPP 55 (clause 7), the consent authority must not grant consent on land unless,

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The development has been supported by a comprehensive soil analysis that has investigated the potential for soil contamination on site.

The report submitted to Council concludes that where development works are to occur, this part of the Neringah Hospital campus is free of soil contamination and in a suitable state for the type of development proposed. The report did, however, highlight some minor soil contamination near the existing hospital building on the Neringah Avenue South frontage associated with an underground storage tank and poor fill containing asbestos. As work proposed as part of this application is well clear of the areas of contamination, no further consideration of this issue is necessary. It is noted the areas of identified contamination are currently sealed beneath hardstand surfaces and are not accessible to staff and patients / visitors of the site and do not pose any risk whilst in situ. Notwithstanding this, should future development be proposed in the vicinity of the known contamination, remediation of the known areas would be necessary and addressed at that time.

SEPP (Hawkesbury Nepean River catchment)

SREP 20 (now a deemed SEPP) applies to land within the catchment of the Hawkesbury Nepean River. The general aim of the plan is to ensure that development and future land uses within the catchment are considered in a regional context. The Plan includes strategies for the assessment of development in relation to water quality and quantity, scenic quality, aquaculture, recreation and tourism.

The proposed development is considered to achieve the relevant aims under this policy.

KU-RING-GAI PLANNING SCHEME ORDINANCE

The application made to Council seeks consent for a dementia car facility. The proponent has subsequently lodged this development as a *hospital* pursuant to the KPSO.

Permissibility

A *hospital* is defined under the KPSO as:

.... a building used or intended for use as a hospital, sanatorium, health centre or dispensary, nursing home or home for aged, infirm, incurable or convalescent persons, whether public or private, and includes a shop or dispensary used in conjunction therewith, but does not include an institution...

A dementia care facility is considered to satisfy this definition as its operation and occupation is characteristic of a nursing home or a home for the infirm, incurable or convalescent persons. Accordingly, the development can be considered as a hospital pursuant to the KPSO.

Notwithstanding, the proposed development also satisfies the definition of a *residential care facility* as contained within SEPP (Housing for Seniors and People with a Disability) 2004. Initially and despite the application being lodged as a hospital under the KPSO concern was raised with the development needing to be considered against and satisfy the

controls of that SEPP, which would have an appreciable impact on the scheme currently being considered by Council.

After being provided with a legal opinion supporting the lodgement of the development as a hospital from the applicant, Council sought its own legal advice as to how to deal with this aspect of the application. This advice confirmed that Council could consider the development as a hospital under the KPSO without needing to consider it against or satisfy the provisions of SEPP (Housing for Seniors or People with a Disability) 2004, as the SEPP was deemed as an enabling policy, which provided a series of controls and standards in the absence of Council controls to deliver and facilitate what is important accommodation. As no such situation occurs in this instance, no consideration or satisfaction of the SEPP is required.

Aims and objectives for residential zones

The development: (i) maintains the amenity and environmental character of the residential zone; and (ii) allows for residential development compatible with the character of the area. Consequently, the aims of the KPSO have been satisfied.

Heritage considerations

The following clauses of the KPSO are relevant to the assessment of heritage impact.

Clause 61D:

....(1) a person shall not, in respect of a building, work, relic, tree or place that is a heritage item –

- (a) demolish, or alter the building or work;*
- (b) damage or move the relic, including excavation for the purpose of exposing the relic;*
- (c) damage or despoil the place or tree;*
- (d) erect a building on or subdivide land on which the building, work, or relic is situated of that comprises the place; or*
- (e) make structural changes to the interior of a building or work listed in Part 1 of Schedule 7,*

except with the consent of the Council

- (2) the Council shall not grant consent to a development application under subclause (1) unless it has taken into consideration the extent to which carrying out of the proposed development would affect the heritage significance of the item and any stylistic or horticultural features of its setting.....*

Clause 61E:

....The Council shall not grant consent to an application to carry out development on land in the vicinity of a heritage item unless it has made an assessment of the effect the

carrying out of that development will have on the heritage significance of the item and setting.....

Pursuant to the considerations prompted by subclause (1) and (2), regard has been given to the proposed development and its impact on the listed heritage item, 3 Woonona Avenue South.

Council is satisfied that the proposed development has an acceptable level of impact upon the heritage significance of the listed item, as detailed within the assessment provided by Council's Heritage Advisor. The assessment and consideration of Council's Heritage Advisor have been supported by a Heritage Impact Statement that was submitted with the application and which was prepared by a qualified heritage architect.

This report concludespotential impacts on the heritage significance of the heritage items in the vicinity of the new Dementia Care building have been acceptably mitigated through the architectural design of the building and its landscaped setting...

The acceptability of the impact is based upon the fact that the building separation controls that would otherwise be applied to a residential flat development are being complied with and that Woonona Cottage is integrated and used as part of the Neringah Hospital campus.

With regard to the considerations prompted by the KPSO with respect to heritage, the proposed development is assessed as being satisfactory.

POLICY PROVISIONS

DCP 31 – Access

In the case of DCP 31, the proposed development is defined as a 'service' type development, with Section 10 of the DCP requiring the following areas to be accessible:

To and within all the areas of facilities of the building where there is a reasonable expectation of access by any owner, occupier, employee or visitor. This usually consists of the entrance floor and access to any other floor to which vertical access by way of a ramp, step ramp, kerb ramp, or passenger lift complying with the requirements of this plan have been provided

In recognition of the controls of DCP 31 and with the type of accommodation to be provided, the development has been specifically designed so as to be accessible throughout the building and its grounds, with this access satisfying the requirements of DCP 31 and AS1428. Furthermore, the design of the access has been justified through the submission of an accessibility report prepared by a qualified accessibility consultant. In this regard, the proposed development is assessed as satisfying the relevant matters for consideration in DCP 31.

DCP 43 – Car parking

DCP 43 applies to the site and development and in the case of hostels, nursing and convalescent homes requires the following amount of car parking:

1 space per 10 beds for visitors plus 1.5 spaces per 2 employees, plus 1 space for an ambulance

In the case of a hospital development of 54 beds and 17 staff during the day and 9 staff during the night, the development generates a maximum parking demand of 13 car spaces plus 1 parking space for an ambulance.

The development includes a basement car park for 21 vehicles plus 1 parking space for an ambulance. The development therefore provides for more car parking than is required or demanded under the DCP.

It is noted that the proposal also includes demolition of the existing single garage associated with 'Woonona Cottage', thereby removing the car parking associated with that building. This demolition is acceptable as it is supported on heritage grounds and as the cottage is used in conjunction with the wider Neringah Hospital campus and more specifically as respite facilities associated with the dementia care facility, the car parking requirements of that facility can be accommodated within the surplus car parking to be provided underneath the dementia car facility.

On this basis, car parking provisions and requirements are assessed as being satisfactory with regard to DCP 43.

DCP 47 – Water management

The proposed development has been supported by a comprehensive stormwater system designed in accordance with the requirements of Council's DCP No. 47.

This plan has been considered and assessed by Council's Development Engineer, who is satisfied that the proposed development's stormwater system has been prepared and designed in accordance with the requirements of DCP 47.

In addition **Conditions 31, 69, 90 & 91** of the recommendation further reinforce compliance with the provisions of DCP 47.

Section 94 Plan

Given the type of development proposed and its targeted, specific use as a dementia care facility, the proponents of this development, Hammondcare, have sought an exemption from a contribution that would otherwise be payable pursuant of the Ku-ring-gai Contributions Plan 2010.

Normally a 'hospital' would not attract a contribution under Council's S94 contribution plan, however, as the type of care provided is that of a nursing home with permanent residents residing on site, this accommodation with regard to Council's contributions plan is

considered 'residential development' and is subject of the plan, as the plan applies to ...*all residential development*....

Part B: Contributions Plan Overview, Management – Policies and Procedures section of *Ku-ring-gai Contributions Plan 2010* embodies all Council's policies and procedures on the management of the levying of development contributions.

At the heart of contributions planning, is the onus of reasonableness. On this basis, *Ku-ring-gai Contributions Plan 2010*, like its predecessors, exempts limited small-scale development from the onus to pay development contributions. For example alternations and additions to existing houses have long been exempted and, more recently, secondary dwellings (which are an entirely distinct form of development from dual occupancies). This policy exists specifically to support local residents to extend their homes to accommodate their existing family and to provide small-scale affordable housing for elderly relatives or older children without undue financial hardship.

In a similar context, *Ku-ring-gai Contributions Plan 2010* also provides for a limited scope for merit exemptions as it is not always possible to identify in advance all developments which may be able to make a meritorious case for exemption. The section, which commences on page 52 of the contributions plan, specifies the limited scope and criteria on which Council may consider a merit exemption on the unique circumstances of the case including (as paraphrased below):

- Developments which provide a distinct community benefit on a not-for-profit basis;
- Development by or for not-for-profit or co-operative organisations which provide a distinct community benefit including community services or the like on a co-operative or not-for-profit basis;
- Development where it can be demonstrated to the satisfaction of Council that in any particular category of contributions that the development, by the particular nature of its use, in the unique circumstances of the case, does not generate a demand for, or derive benefit from, some or any of the types of facilities and amenities to be provided; and/or
- Development which involves the internal conversion of a dwelling recently used for commercial purposes, back to residential use (except as part of a larger redevelopment).

The proposed development satisfies three of the above exemption criteria, notwithstanding that being able to demonstrably meet only one of the criteria would be adequate to render it feasible to apply for consideration for an exemption.

Hammondcare have made a comprehensive submission as part of their Development Application to inform and assist Council in assessing the key criteria for an exemption from the onus to pay development contributions. This submission is summarised below:

Not-for-profit

"Hammondcare is an independent Christian charity which provides targeted dementia care, palliative care, rehabilitation and older persons mental health services on a not-for-

profit basis. Approximately 40% of our residents are financially disadvantaged and we do not deny services if prospective residents are unable to pay.”

Distinct community benefit

“The Dementia Care Facility will provide an important community service allowing local residents with dementia to remain in their local community.”

“Population statistics demonstrate that there is a pressing need for dementia specific care services for dependent older people in this area. A recent study from Access Economics (Projections of Dementia Prevalence in NSW, 2009-2050, September 2009) identified that the greater Northern Sydney region currently has the highest number of people with dementia in all of NSW and will experience a shortfall in dementia services from 2012 onwards. Further, data from the Australian Department of Health and Ageing shows that, at the moment, there is only one other aged care facility with low care beds in Wahroonga and there are only 139 low care, secure dementia beds in the Ku-ring-gai area. The subject proposal for 54 dementia beds provides an important boost to dementia care in the local area.”

“The proposal has the potential to alleviate pressure on the public health system and local government services, while improving choice for local residents living with dementia.”

Negligible use or benefit (limitation of nexus)

“The proposed development is a dementia-specific, residential aged care facility which will be staffed at all times by a team of trained nurses and/or aged care workers ... as such it is quite different from infill self contained dwelling forms of seniors housing and retirement villages which cater to more active, independent seniors who are more likely to use community services and facilities. Residents of dementia care typically favour the familiarity of their home environment and on-site facilities. Outings typically involve family members taking their parent to their home rather than an unfamiliar public environment that may cause stress to the dementia sufferer.”

Precedent

“The Dementia Care Facility is a highly specialised form of seniors accommodation that is vastly different in terms of operation, clientele and income generation for the owner/operator (Hammondcare).”

In summary, the arguments advanced by Hammondcare demonstrate that the subject development:

- is by a not-for-profit organisation, an independent charity
- provides services on a not-for-profit basis
- provides services with a distinct community benefit for which, additionally, there is a current and growing need
- benefits the community of Ku-ring-gai by providing an opportunity for local residents who develop dementia to remain in their local community

- by the nature of its use, houses residents who are not in a position to derive direct benefit from council-provided facilities in the same manner as other members of the community, or even in the same manner as other residents of non-private dwellings

Additionally, the highly specialised nature of the proposal means that a decision made on the merits of the unique circumstances of this case, will not create a precedent that could be relied upon by dissimilar developments that do not meet the same criteria on their own merits. Each and every application for exemption must follow the same merit assessment and reporting process.

In conclusion, it is considered that the combined effect of the criteria that is met by this development, including the community benefit, the not-for profit provision of community services, the identity of the provider as a not-for-profit charity provider, and the nature of the operation and of the new residents as supporting little nexus for the provision of additional services and facilities, collectively supports a case for exemption from the onus to pay development contributions.

Financial considerations

In the case of this development, if it were provided on a commercial basis, the non-private dwellings proposed (nett of the credit for two existing dwellings) would nominally attract development contributions in the amount of: \$401,466.53.

Key Community Infrastructure	Amount
Local parks and Local sporting facilities	\$321,075.47
Local recreational and cultural, Local social facilities	\$54,946.00
Local Roads, Local Bus Facilities & Local Drainage Facilities	\$25,445.06
Total Contributions	\$401,466.53

To put these contributions in perspective, the largest component of the contributions is for open space. That figure would purchase and embellish approximately 161sqm of open space which must be compared with an average residential block size in the order of 1,000sqm and with the total area of this development being 4,295.7sqm – itself part of the total Neringah Hospital site of 10,771sqm. While new open space represents an important community benefit, in this case, the quantum is a relatively minor shortfall when considered in conjunction with the overall community benefit proposed. It is also important to note that the direct nexus argument for the provision of additional open space is also diminished as a result of the unique characteristics of the future residents of this development and their need for a secure, self-contained, enclosed environment.

Note: One of the properties involved in this development is outside the local centre of Wahroonga by virtue of being zoned 2(c); the other properties are zoned 2(d3) and are, accordingly, within that local centre. Accordingly the property has been assessed as being within the local centre of Wahroonga. Notwithstanding the use is permissible in both zones and Neringah Hospital is established on this site.

Comparatively, while this figure would not be considered an onerous contribution for a commercial proposition, it represents a significant impost on a not-for-profit organisation

and charity. The capacity built into the Contributions Plan to provide scope to consider, on merit, exemptions for not-for-profit organisations which provide a distinct community benefit, exists to address this type of issue. It must be considered that it is likely that if contributions were charged, they would need to be funded from the operational budget of the not-for-profit, charitable entity.

On the basis of the above, it is accepted, within the terms of the Ku-ring-gai Contributions 2010, that this development be exempted from a Contribution that would otherwise be payable to Council. To facilitate this, the following condition (**Condition 47**) is recommended:

**Section 94 Development Contributions – Wahroonga Local Centre
(For DAs determined on or after 19 December 2010).**

This development is subject to a development contribution calculated in accordance with Ku-ring-gai Contributions Plan 2010, being a s94 Contributions Plan in effect under the Environmental Planning and Assessment Act, as follows:

Key Community Infrastructure	Amount
Local parks and local sporting facilities	\$321,075.47
Local recreation and cultural facilities;	\$54,946.00
Local social facilities	
Local Roads, Local Bus Facilities & Local Drainage Facilities	\$25,445.06
Total:	\$401,466.53

The whole of this contribution shall be **fully suspended** for so long as the dementia care facility the subject of this consent remains operated on a not-for-profit basis. In the event this facility becomes a 'for-profit' or commercial operation this contribution will become due and payable inclusive of full indexation to reflect changes in the consumer price index and housing price index from the date of calculation (March Quarter 2012) in accordance with Ku-ring-gai Contributions Plan 2010. These contributions will become due and payable at the elapse of one calendar month of the change of operation or ownership. Prior to payment, the new owner/operator is advised to contact Council directly to verify the current payable contributions.

Ku-ring-gai Contributions Plan 2010 may be viewed online at www.kmc.nsw.gov.au and at the Council Chambers.

LIKELY IMPACTS

The likely impacts of the development have been considered within this report and are deemed to be acceptable, subject to conditions.

SUITABILITY OF THE SITE

The proposal is considered to be a reasonable development which does not result in any unreasonable impacts upon adjoining properties or the streetscape. The site is suitable for the proposed development and this has been demonstrated in the above assessment.

ANY SUBMISSIONS

The matters raised in the submissions have been addressed in this report.

PUBLIC INTEREST

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments and by Council ensuring that any adverse effects on the surrounding area and the environment are minimised. The proposal has been assessed against the relevant environmental planning instruments and is deemed to be acceptable. Accordingly, the proposal is recommended for approval.

CONCLUSION

This application has been assessed under the heads of consideration of Section 79C of the Environmental Planning and Assessment Act 1979 and all relevant instruments, policies and considerations. The proposal is considered to be generally consistent with the relevant Council statutory and policy controls. Where strict compliance has not been achieved, the proposal has been considered with respect of the control outcomes and supported on merit.

RECOMMENDATION

PURSUANT TO SECTION 80(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

- A. That the Sydney West Joint Regional Planning Panel, as the consent authority, is of the opinion that the objection under State Environmental Planning Policy No. 1 – Development Standards to the zone interface standard in clause 25L of the Ku-ring-gai Planning Scheme Ordinance is well founded. The Sydney West Joint Regional Planning Panel is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case.
- B. That the Sydney West Joint Regional Planning Panel being satisfied that the objection under State Environmental Planning Policy No. 1 is well founded and that strict compliance with the development standard in Clause 25L of the Ku-ring-gai Planning Scheme Ordinance is unreasonable and unnecessary in the circumstance of this case grant development consent to Development Application No. 0058/12 for the demolition of eight (8) structures and construction of a 3 / 4 storey hospital comprising 54 bedrooms, with basement car parking and ancillary site works for use as a dementia care facility as well as the consolidation of all lots excluding Lot 1 DP960051 and Lot 52 DP2666 at 3,5 & 9 Woonona Avenue and 2,4,6,8 & 10

Neringah Avenue South, Wahrenga for a period of 2 years from the date of determination, subject to the following conditions:

CONDITIONS THAT IDENTIFY APPROVED PLANS:

1. Approved architectural plans and documentation

The development must be carried out in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

Plan no.	Drawn by	Dated
Site Plan DA005 Issue N	Jackson Teece	28/06/2012
Lower Ground Floor Plan DA110 Issue O	Jackson Teece	28/06/2012
Ground Floor Plan DA111 Issue O	Jackson Teece	28/06/2012
First Floor Plan DA112 Issue N	Jackson Teece	28/06/2012
Second Floor Plan DA113 Issue O	Jackson Teece	28/06/2012
Roof Plan DA114/12 Issue H	Jackson Teece	28/06/2012
Typical Resident Room DA170 Issue D	Jackson Teece	28/06/2012
Proposed Elevations DA300 Issue O	Jackson Teece	28/06/2012
Proposed Elevations 2 DA350 Issue L	Jackson Teece	28/06/2012
Proposed Sections 1 DA400 Issue N	Jackson Teece	28/06/2012
Proposed Sections 2 DA401 Issue D	Jackson Teece	28/06/2012
LA04 Issue A	TaylorBrammer	21/12/2011
LA05 Issue A	TaylorBrammer	21/12/2011
LA06 Issue A	TaylorBrammer	21/12/2011
LA07 Issue A	TaylorBrammer	21/12/2011
LA08 Issue A	TaylorBrammer	21/12/2011
LA09 Issue A	TaylorBrammer	21/12/2011
LH9471 DA-C000 Revision 3	Cardno	13/02/2012
LH9471 DA-C001 Revision 3	Cardno	13/02/2012
LH9471 DA-C002 Revision 4	Cardno	29/06/2012
LH9471 DA-C003 Revision 3	Cardno	13/02/2012
LH9471 DA-C004 Revision 3	Cardno	13/02/2012
LH9471 DA-C005 Revision 3	Cardno	13/02/2012

Document(s)	Prepared by
Neringah Dementia Care Facility - Finishes Board	Jackson Teece

Reason: To ensure that the development is in accordance with the determination.

2. Inconsistency between documents

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

Reason: To ensure that the development is in accordance with the determination.

3. Approved landscape plans

Landscape works shall be carried out in accordance with the following landscape plan(s), listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

Plan no.	Drawn by	Dated
LA01 to 08 Rev A	Taylor Brammer Landscape Architects Pty Ltd	02/07/12
LA09 Rev A	Taylor Brammer Landscape Architects Pty Ltd	29/06/12

Reason: To ensure that the development is in accordance with the determination.

4. No demolition of extra fabric

Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans (by way of notation). No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is shown to be retained.

Reason: To ensure compliance with the development consent.

Conditions to be satisfied prior to demolition, excavation or construction:

5. Road opening permit

The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a road opening permit being obtained from Council (upon payment of the required fee) beforehand.

Reason: Statutory requirement (Roads Act 1993 Section 138) and to maintain the integrity of Council's infrastructure.

6. Notice of commencement

At least 48 hours prior to the commencement of any development (including demolition, excavation, shoring or underpinning works), a notice of commencement of building or subdivision work form and appointment of the principal certifying authority form shall be submitted to Council.

Reason: Statutory requirement.

7. Notification of builder's details

Prior to the commencement of any development or excavation works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

Reason: Statutory requirement.

8. Dilapidation survey and report (public infrastructure)

Prior to the commencement of any development or excavation works on site, the Principal Certifying Authority shall be satisfied that a dilapidation report on the visible and structural condition of all structures of the following public infrastructure, has been completed and submitted to Council:

Public infrastructure

- Full road pavement width, including kerb and gutter, of Neringah Avenue South, Woonona Avenue South (full length of both) and Warwilla Avenue (between Woonona And Neringah Avenues), including both intersections.
- All driveway crossings and laybacks opposite the subject site.

The report must be completed by a consulting structural/civil engineer. Particular attention must be paid to accurately recording (both written and photographic) existing damaged areas on the aforementioned infrastructure so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development.

The developer may be held liable to any recent damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded by the requirements of this condition prior to the commencement of works.

Note: A written acknowledgment from Council must be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any excavation works.

Reason: To record the structural condition of public infrastructure before works commence.

9. Archival recording of buildings

Prior to the commencement of any development or excavation works on site, the Principal Certifying Authority shall be satisfied that an archival report has been submitted to Council's Heritage Advisor.

The report must consist of an archival standard photographic record of the building (internally and externally), its garden and views of it from the street illustrating its relationship to neighbouring properties and the streetscape. Recording shall be

undertaken in accordance with the guidelines for “Photographic Recording of Heritage Items Using Film or Digital Capture (2006)” prepared by the New South Wales Heritage Office.

Information shall be bound in an A4 report format. It shall include copies of photographs, referenced to plans of the site. Two (2) copies (one (1) copy to include negatives or CD of images shall be submitted to Council's Heritage Advisor. The recording document will be held in the local studies collection of Ku-ring-gai Library, the local historical society and Council's files.

Note: A written acknowledgment from Council must be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works.

Reason: To ensure the proper management of historical artefacts and to ensure their preservation.

10. Dilapidation survey and report (private property)

Prior to the commencement of any demolition or excavation works on site, the Principal Certifying Authority shall be satisfied that a dilapidation report on the visible and structural condition of all structures upon the following lands, has been completed and submitted to Council:

Address

- 1 and 3 Woonona Avenue
- the southern most building at 15-17 Woonona Avenue

The dilapidation report must include a photographic survey of adjoining properties detailing their physical condition, both internally and externally, including such items as walls ceilings, roof and structural members. The report must be completed by a consulting structural/geotechnical engineer as determined necessary by that professional based on the excavations for the proposal and the recommendations of the submitted geotechnical report.

In the event that access for undertaking the dilapidation survey is denied by a property owner, the applicant must demonstrate in writing to the satisfaction of the Principal Certifying Authority that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

Note: A copy of the dilapidation report is to be provided to Council prior to any excavation works been undertaken. The dilapidation report is for record keeping purposes only and may be used by an applicant or affected property owner to assist in any civil action required to resolve any dispute over damage to adjoining properties arising from works.

Reason: To record the structural condition of likely affected properties before works commence.

11. Additional geotechnical and environmental investigations

Prior to the commencement of any bulk excavation works on site, the applicant shall submit to the Principal Certifying Authority, the results of the detailed geotechnical investigation recommended in Section 5 of the report by Jeffery and Katauskas Ref: E24031SP3rpt dated 24 October 2011. The recommendations of the geotechnical engineer are to be implemented during the course of the works.

Prior to the commencement of works on the site, the applicant shall submit to the Principal Certifying Authority the results of the additional environmental investigation recommended in Section 10.3 of the Stage 1 report by EIS Ref: E24031Krpt dated June 2010. Works are to proceed in accordance with any recommendations made by the environmental consultant.

Reason: To ensure the safety and protection of property.

12. Archaeological survey

Prior to commencement of any development or excavation works, the Principal Certifying Authority shall be satisfied that an archaeological survey has been completed and submitted to Council's Heritage Advisor.

The survey shall be carried out by a qualified archaeologist and shall identify the likelihood of remains and/or artefacts, whether European or Aboriginal, being present on site.

If this report identifies that such items are likely to be on site, demolition, earthworks and excavation shall be undertaken under the direct supervision of the consultant archaeologist. An excavation permit under S 140 of the Heritage Act may be required if it is likely relics will be uncovered.

In the event that remnants or artefacts are found during the progression of works on the site, excavation or disturbance of the area is to stop immediately. In accordance with section 146(a) of the 'Heritage Act, 1977' the applicant must ensure the Heritage Council of NSW is notified within a reasonable time of the discovery or location of these relics. Archaeological assessment and approval, or endorsement, may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

A policy of managing the known relics and an interpretative strategy developed on how to interpret any relics found on the site must be developed and subject to separate approval by Council's Heritage Advisor.

Reason: To comply with the provisions of the NSW Heritage Act and to ensure the proper management of relics and historical artefacts.

13. Construction and traffic management plan

The applicant must submit to Council a Construction Traffic Management Plan (CTMP), which is to be approved prior to the commencement of any works on site.

The plan is to consist of a report with Traffic Control Plans attached.

The report is to contain commitments which must be followed by the demolition and excavation contractor, builder, owner and subcontractors. The CTMP applies to all persons associated with demolition, excavation and construction of the development.

For traffic and pedestrian safety, no truck movements are permitted in Woonona Avenue during school drop-off (8.00 to 9.30am) and pick-up (2.30 to 4.00pm) periods on school days.

The report is to contain construction vehicle routes for approach and departure to and from all directions.

The report is to contain a site plan showing entry and exit points. Swept paths are to be shown on the site plan showing access and egress for an 11 metre long heavy rigid vehicle.

The Traffic Control Plans are to be prepared by a qualified person (red card holder). One must be provided for each of the following stages of the works:

- o Demolition
- o Excavation
- o Concrete pour
- o Construction of vehicular crossing and reinstatement of footpath
- o Traffic control for vehicles reversing into or out of the site.

Traffic controllers must be in place at the site entry and exit points to control heavy vehicle movements in order to maintain the safety of pedestrians and other road users.

When a satisfactory CTMP is received, a letter of approval will be issued with conditions attached. Traffic management at the site must comply with the approved CTMP as well as any conditions in the letter issued by Council. Council's Rangers will be patrolling the site regularly and fines may be issued for any non-compliance with this condition.

Reason: To ensure that appropriate measures have been considered during all phases of the construction process in a manner that maintains the environmental amenity and ensures the ongoing safety and protection of people.

14. Work zone

A Works Zone is to be provided in Woonona Avenue subject to the approval of the Kuring-gai Local Traffic Committee.

No loading or unloading must be undertaken from the public road or nature strip unless within a Works Zone which has been approved and paid for.

In the event the work zone is required for a period beyond that initially approved by the Traffic Committee, the applicant shall make a payment to Council for the extended period

in accordance with Council's schedule of fees and charges for work zones prior to the extended period commencing.

Reason: To ensure that appropriate measures have been made for the operation of the site during the construction phase.

15. Sediment controls

Prior to any work commencing on site, sediment and erosion control measures shall be installed along the contour immediately downslope of any future disturbed areas.

The form of the sediment controls to be installed on the site shall be determined by reference to the 'NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction'. The erosion controls shall be maintained in an operational condition until the development activities have been completed and the site fully stabilised. Sediment shall be removed from the sediment controls following each heavy or prolonged rainfall period.

Reason: To preserve and enhance the natural environment.

16. Erosion and drainage management

Earthworks and/or demolition of any existing buildings shall not commence until an erosion and sediment control plan is submitted to and approved by the Principal Certifying Authority. The plan shall comply with the guidelines set out in the NSW Department of Housing manual "Managing Urban Stormwater: Soils and Construction". Erosion and sediment control works shall be implemented in accordance with the erosion and sediment control plan.

Reason: To preserve and enhance the natural environment.

17. Tree protection fencing

To preserve the following tree/s, no work shall commence until the area beneath their canopy is fenced off at the specified radius from the trunk/s to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

Schedule

Tree/Location

Radius in metres

Tree's 1, 3, 4 & 5 – 4 x *Liquidambar styraciflua*
(Liquidambar)
/ Woonona Ave nature strip

0.5 to 1 metre
(Pedestrian
access to be
maintained at all
time)

Tree 10 – *Ginkgo biloba* (Maiden-hair Tree)
/ Western (front) boundary

2 metres

Tree 15 – *Chamaecyparis funebris* (Chinese Weeping

3 metres

Cypress)

/ Northern side of Woonona Cottage

Rhododendron sp. (Broad leaf Rhododendron)

2 metres

/ Northern side of Woonona Cottage

Tree 18 – *Lophostemon confertus* (Brushbox)

4 metres

/ No. 2 Neringah Avenue

(during
demolition works
only)

Tree 19 - *Lophostemon confertus* (Brushbox)

5 metres

/ No. 2 Neringah Avenue

Tree 26 – *Brachychiton acerifolius* (Flame Tree)

3 metres

/ No. 6 Neringah Avenue

(during
demolition works
only)

Reason: To protect existing trees during the construction phase.

18. Tree protective fencing type galvanised mesh

The tree protection fencing shall be constructed of galvanised pipe at 2.4 metre spacing and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres in height prior to work commencing.

Reason: To protect existing trees during construction phase.

19. Tree protection signage

Prior to works commencing, tree protection signage is to be attached to each tree protection zone, displayed in a prominent position and the sign repeated at 10 metres intervals or closer where the fence changes direction. Each sign shall contain in a clearly legible form, the following information:

Tree protection zone.

- This fence has been installed to prevent damage to the trees and their growing environment both above and below ground and access is restricted.
- Any encroachment not previously approved within the tree protection zone shall be the subject of an arborist's report.
- The arborist's report shall provide proof that no other alternative is available.
- The Arborist's report shall be submitted to the Principal Certifying Authority for further consultation with Council.
- The name, address, and telephone number of the developer.

Reason: To protect existing trees during the construction phase.

20. Tree fencing inspection

Upon installation of the required tree protection measures, an inspection of the site by the Principal Certifying Authority is required to verify that tree protection measures comply with

all relevant conditions.

Reason: To protect existing trees during the construction phase.

21. Construction waste management plan

Prior to the commencement of any works, the Principal Certifying Authority shall be satisfied that a waste management plan, prepared by a suitably qualified person, has been prepared in accordance with Council's DCP 40 – Construction and Demolition Waste Management.

The plan shall address all issues identified in DCP 40, including but not limited to: the estimated volume of waste and method for disposal for the construction and operation phases of the development.

Note: The plan shall be provided to the Certifying Authority.

Reason: To ensure appropriate management of construction waste.

22. Noise and vibration management plan

Prior to the commencement of any works, a noise and vibration management plan is to be prepared by a suitably qualified expert addressing the likely noise and vibration from demolition, excavation and construction of the proposed development and provided to the Principal Certifying Authority. The management plan is to identify amelioration measures to achieve the best practice objectives of AS 2436-2010 and NSW Department of Environment and Climate Change Interim Construction Noise Guidelines. The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works.

The management plan shall address, but not be limited to, the following matters:

- identification of the specific activities that will be carried out and associated noise sources
- identification of all potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment
- the construction noise objective specified in the conditions of this consent
- the construction vibration criteria specified in the conditions of this consent
- determination of appropriate noise and vibration objectives for each identified sensitive receiver
- noise and vibration monitoring, reporting and response procedures
- assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles and any traffic diversions
- description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction
- construction timetabling to minimise noise impacts including time and duration

- restrictions, respite periods and frequency
- procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration
- contingency plans to be implemented in the event of non-compliances and/or noise complaints

Reason: To protect the amenity afforded to surrounding residents during the construction process.

Conditions to be satisfied prior to the issue of the construction certificate:

23. Consolidation of lots

Prior to the issue of the Construction Certificate, the applicant is to consolidate all lots as proposed except for 2 and 12 Neringah Avenue. Evidence of the consolidation, in the form of a plan registered with Department of Lands, is to be submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure that development does not occur across property boundaries.

24. Amendments to stormwater plans

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that the approved stormwater plans, listed below and endorsed with Council's stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this consent:

Plan no.	Drawn by	Dated
LH9471 DA-C001 Revision 3 Cardno		13/02/12
LH9471 DA-C002 Revision 4 Cardno		29/06/12

The above stormwater plan(s) shall be amended in the following ways:

- The plans shall note that the trenches within the specified distance of the trunks of the following trees shall be dug by hand and no roots greater than 30mm in diameter shall be injured or severed.

Species / Location	Radius From Trunk
Tree 1 – <i>Liquidambar styraciflua</i> (Liquidambar) / Woonona Avenue nature strip, northern side of driveway	4 metres

Reason: To protect existing trees.

25. Amendments to architectural plans

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied

that the approved architectural plans, listed below and endorsed with Council's stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this consent:

Plan no.	Drawn by	Dated
Demolition Plan 2010098 DA04 Issue J	Jackson Teece Architect	28/06/12
Excavation Plan 2010098 DA08 Issue C	Jackson Teece Architect	28/06/12
Site Plan 2010098 DA005 Issue N	Jackson Teece Architect	28/06/12
Ground Floor Plan 2010098 DA111 Issue O	Jackson Teece Architect	28/06/12
Lower Ground Floor Plan 2010098 DA110 Issue O	Jackson Teece Architect	28/06/12

The above plan(s) shall be amended in the following ways:

- Tree 10 – *Ginkgo biloba* (Maiden-hair Tree) shall be indicated on the Lower Ground Floor Plan listed above. All other plans shall include the retention of Tree 10 and all trees numbered to reflect the numbering indicated on the approved landscape plans.

Reason: To protect existing trees.

26. Amendments to approved landscape plan

Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that the approved landscape plans, listed below and endorsed with Council's stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this consent:

Plan no.	Drawn by	Dated
LA01 to 08 Rev A	Taylor Brammer Landscape Architects Pty Ltd	02/07/12
LA09 Rev A	Taylor Brammer Landscape Architects Pty Ltd	29/06/12

The above landscape plan(s) shall be amended in the following ways:

- Tree 10 – *Ginkgo biloba* (Maiden-hair Tree) shall be retained.
- The 5 x *Ceratopetalum gummiferum* (NSW Christmas Bush) proposed to be planted along the north eastern side of the driveway are to be replaced with *Tristaniopsis laurina* (Water Gum) or *Hymenosporum flavum* (Native Frangipani) or *Franklinia axillaris* (Gordonia).
- A canopy tree that attains a minimum height of 13 metres shall be planted on the eastern side of Woonona Cottage to replace the recent removal of Tree 17.
- The *Liquidambar styraciflua* (Liquidambar) to be planted on the nature strip to replace the removal of Tree 2 shall be included in the plant schedule. The planted

- specimen shall have a minimum container size of 75 litres.
- To maintain the existing landscape amenity of Woonona Cottage the 1x (CF) *Cercis* 'Forest Pansy' and 1 x (PS) *Prunus pissardii* 'Nigra' shall be replaced with evergreen species that will attain a minimum height of 8 metres.
- To maintain the existing landscape amenity of Woonona Cottage additional screen planting that will attain a height of 4 metres shall be planted along the southern edge of the new building.
- To minimise the impacts of the development on the streetscape 3 evergreen trees shall be planted within the front setback forward of the proposed building. Species such as *Syncarpia glomulifera* (Turpentine), *Waterhousia floribunda* (Weeping Lillypilly), *Syzygium floribundum* (Weeping Lilly Pilly), *Syzygium francisii* (Francis Water Gum), *Arbutus unedo* (Irish Strawberry Tree) or *Metrosideros excelsa* (New Zealand Christmas Tree) are to be used.
- The proposed planting of 25 x (AS) *Acer palmatum* 'Atropurpureum' (Japanese Maple) within the planter boxes on the ground, first and second floor terraces are unlikely to survive. They are to be replaced with a hardy species that can adapt to a confined soil area and limited soil moisture.

Prior to the issue of the Construction Certificate, the Principal Certifying Authority shall be satisfied that the landscape plan has been amended are required by this condition.

Note: An amended plan, prepared by a landscape architect or qualified landscape designer shall be submitted to the Certifying Authority.

Reason: To ensure adequate landscaping of the site

27. Long service levy

In accordance with Section 109F(i) of the Environmental Planning and Assessment Act a Construction Certificate shall not be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided to Council.

Reason: Statutory requirement.

28. Outdoor lighting

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that all outdoor lighting will comply with AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting and AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting.

Note: Details demonstrating compliance with these requirements are to be submitted prior to the issue of a Construction Certificate.

Reason: To provide high quality external lighting for security without adverse affects on public amenity from excessive illumination levels.

29. External service pipes and the like prohibited

Proposed water pipes, waste pipes, stack work, duct work, mechanical ventilation plant and the like must be located within the building. Details confirming compliance with this condition must be shown on construction certificate plans and detailed with construction certificate specifications. Required external vents or vent pipes on the roof or above the eaves must be shown on construction certificate plans and detailed with construction certificate specifications. External vents or roof vent pipes must not be visible from any place unless detailed upon development consent plans. Where there is any proposal to fit external service pipes or the like this must be detailed in an amended development (S96) application and submitted to Council for determination.

Vent pipes required by Sydney Water must not be placed on the front elevation of the building or front roof elevation. The applicant, owner and builder must protect the appearance of the building from the public place and the appearance of the streetscape by elimination of all external services excluding vent pipes required by Sydney Water and those detailed upon development consent plans.

Reason: To protect the streetscape and the integrity of the approved development.

30. Access for people with disabilities (residential)

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that access for people with disabilities to and from and between the public domain, residential units and all common open space areas is provided. Consideration must be given to the means of dignified and equitable access.

Compliant access provisions for people with disabilities shall be clearly shown on the plans submitted with the Construction Certificate. All details shall be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate. All details shall be prepared in consideration of the Disability Discrimination Act, and the relevant provisions of AS1428.1, AS1428.2, AS1428.4 and AS 1735.12.

Reason: To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards.

31. Stormwater management plan

Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifying Authority, scale construction plans and specifications in relation to the stormwater management and disposal system for the development. The plan(s) must be based on **Cardno Drawings LH9471DA-C000 to DA-C003, all revision 3** and must include the following detail:

- exact location and reduced level of discharge point to the public drainage system
- Layout of the property drainage system components, including but not limited to (as required) gutters, downpipes, spreaders, pits, swales, kerbs, cut-off and intercepting drainage structures, subsoil drainage, flushing facilities and all ancillary

- stormwater plumbing - all designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence)
- location(s), dimensions and specifications for the required rainwater storage and reuse tanks and systems and where proprietary products are to be used, manufacturer specifications or equivalent shall be provided
- specifications for reticulated pumping facilities (including pump type and manufacturer specifications) and ancillary plumbing to fully utilise rainwater in accordance with Ku-ring-gai Council Development Control Plan 47 and/or BASIX commitments
- details of the required on-site detention tanks required by Ku-ring-gai Water Management DCP 47, including dimensions, materials, locations, orifice and discharge control pit details as required (refer Chapter 6 and Appendices 2, 3 and 5 of DCP 47 for volume, PSD and design requirements) . **In this instance, the Site Storage Requirement may be based on 60% of the site area.**

The above construction drawings and specifications are to be prepared by a qualified and experienced civil/hydraulic engineer in accordance with Council's Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - Plumbing and Drainage Code and the Building Code of Australia.

Reason: To protect the environment.

32. Sydney Water Section 73 Compliance Certificate (Part 1)

Prior to the issue of a Construction Certificate, a Compliance Certificate under Section 73 of the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Co-ordinator. For details see the Sydney Water web site www.sydneywater.com.au, or telephone 13 20 92.

Following application, a notice of requirements will be forwarded, detailing water and sewer extensions to be built and charges to be paid. Early contact with the coordinator is advisable since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design. Details of any requirements of Sydney Water are to be provided with the Construction Certificate documentation.

Reason: Statutory requirement.

33. Excavation for services

Prior to the issue of the Construction Certificate, the Principal Certifying Authority shall be satisfied that no proposed underground services (ie: water, sewerage, drainage, gas or other service) unless previously approved by conditions of consent, are located beneath the canopy of any tree protected under Council's Tree Preservation Order, located on the subject allotment and adjoining allotments.

Note: A plan detailing the routes of these services and trees protected under the Tree Preservation Order shall be submitted to the Principal Certifying Authority.

Reason: To ensure the protection of trees.

34. Footpath near trees

Prior to the issue of the Construction Certificate, the Principal Certifying shall be satisfied that paving works for the new footpath within the specified radius of the trunk(s) of the following tree(s) will be constructed in such a manner that will not require the removal of any roots greater than 30mm in diameter.

Schedule

Tree/location

Tree's 1, 3, 4, 5, 6 & 7 –
6 x *Liquidambar styraciflua* (Liquidambar)
/ Woonona Avenue nature strip

Radius in metres

5 metres

Note: Details of the paving prepared by a suitably qualified professional shall be submitted to the Principal Certifying Authority.

Reason: To protect existing trees.

35. Pier and beam footings near trees

Prior to the issue of the Construction Certificate, the Principal Certifying Authority shall be satisfied that the footings of the approved front stone fence will be isolated pier or pier and beam construction within the specified radius of the trunk/s of the following tree/s:

Schedule

Tree/Location

Tree's 3 & 4 – 2 x *Liquidambar styraciflua*
(Liquidambar)
/ Woonona Avenue nature strip

Radius from trunk

5 metres

The piers shall be located such that no roots of a diameter greater than 30mm will be severed or injured during the construction period. The beam/s shall be of reinforced concrete or galvanised steel sections and placed in positions with the base of the beam being a minimum of 50mm above existing soil levels.

Note: Structural details of the pier or pier and beam construction shall be submitted to the Principal Certifying Authority.

Reason: To protect existing trees.

36. Landscape plan

Prior to the issue of the Construction Certificate, the Principal Certifying Authority shall be satisfied that a landscape plan has been completed in accordance with Council's DA Guide, relevant development control plans and the conditions of consent by a Landscape Architect or qualified Landscape Designer.

Note: The Landscape Plan must be submitted to the Principal Certifying Authority.

Reason: To ensure adequate landscaping of the site.

37. Driveway crossing levels

Prior to issue of the Construction Certificate, driveway and associated footpath levels for any new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Ku-ring-gai Council. Such levels are only able to be issued by Council under the Roads Act 1993. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings".

Specifications are issued with alignment levels after completing the necessary application form at Customer Services and payment of the assessment fee. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant development application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment.

This development consent is for works wholly within the property. Development consent does not imply approval of footpath or driveway levels, materials or location within the road reserve, regardless of whether this information is shown on the development application plans. The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels.

The construction of footpaths and driveways outside the property in materials other than those approved by Council is not permitted.

Reason: To provide suitable vehicular access without disruption to pedestrian and vehicular traffic.

38. Driveway grades – basement car parks

Prior to the issue of the Construction Certificate, longitudinal driveway sections are to be prepared by a qualified civil/traffic engineer and be submitted for to and approved by the Certifying Authority. These profiles are to be at 1:100 scale along both edges of the proposed driveway, starting from the centreline of the frontage street carriageway to the proposed basement floor level. The traffic engineer shall provide specific written certification on the plans that:

- vehicular access can be obtained using grades of 20% (1 in 5) maximum and
- all changes in grade (transitions) comply with Australian Standard 2890.1 –“Off-street car parking” (refer clause 2.5.3) to prevent the scraping of the underside of vehicles.

If a new driveway crossing is proposed, the longitudinal sections must incorporate the

driveway crossing levels as issued by Council upon prior application.

Reason: To provide suitable vehicular access without disruption to pedestrian and vehicular traffic.

39. Basement car parking details

Prior to issue of the Construction Certificate, certified parking layout plan(s) to scale showing all aspects of the vehicle access and accommodation arrangements must be submitted to and approved by the Certifying Authority. A qualified civil/traffic engineer must review the proposed vehicle access and accommodation layout and provide written certification on the plans that:

- all parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply with Australian Standard 2890.1 – 2004 “Off-street car parking”
- a clear height clearance of **2.6 metres** (required under DCP40 for waste collection trucks) is provided over the designated garbage collection truck manoeuvring areas within the basement
- no doors or gates are provided in the access driveways to the basement carpark which would prevent unrestricted access for internal garbage collection at any time from the basement garbage storage and collection area
- the vehicle access and accommodation arrangements are to be constructed and marked in accordance with the certified plans

Reason: To ensure that parking spaces are in accordance with the approved development.

40. Design of works in public road (Roads Act approval)

Prior to issue of the Construction Certificate, the Certifying Authority shall be satisfied that engineering plans and specifications prepared by a qualified consulting engineer have been approved by Council’s Development Engineer. The plans to be assessed must be to a detail suitable for construction issue purposes and must detail the following infrastructure works required in Woonona Avenue:

- new footpath for the full frontage of the site

Development consent does not give approval to these works in the road reserve. The applicant must obtain a separate approval under sections 138 and 139 of The Roads Act 1993 for the works in the road reserve required as part of the development. The Construction Certificate must not be issued, and these works must not proceed until Council has issued a formal written approval under the Roads Act 1993.

The required plans and specifications are to be designed in accordance with the General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council, dated November 2004. The drawings must detail existing utility services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works. Survey must be undertaken as required. Traffic management is to be

certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RTA Traffic Control at Work Sites (1998). Construction of the works must proceed only in accordance with any conditions attached to the Roads Act approval issued by Council.

A minimum of three (3) weeks will be required for Council to assess the Roads Act application. Early submission of the Roads Act application is recommended to avoid delays in obtaining a Construction Certificate. An engineering assessment and inspection fee (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.

Reason: To ensure that the plans are suitable for construction purposes.

41. Utility provider requirements

Prior to issue of the Construction Certificate, the applicant must make contact with all relevant utility providers whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained. All utility services or appropriate conduits for the same must be provided by the developer in accordance with the specifications of the utility providers.

Reason: To ensure compliance with the requirements of relevant utility providers.

42. Underground services

All electrical services (existing and proposed) shall be undergrounded from the proposed building on the site to the appropriate power pole(s) or other connection point. Undergrounding of services must not disturb the root system of existing trees and shall be undertaken in accordance with the requirements of the relevant service provided. Documentary evidence that the relevant service provider has been consulted and that their requirements have been met are to be provided to the Certifying Authority prior to the issue of the Construction Certificate. All electrical and telephone services to the subject property must be placed underground and any redundant poles are to be removed at the expense of the applicant.

Reason: To provide infrastructure that facilitates the future improvement of the streetscape by relocation of overhead lines below ground.

43. Cleanliness and maintenance of food preparation areas

Plans and specifications complying with the requirements of the Food Act and Regulations, Australian Standard AS 4676 2004, AS 1668 Parts 1 and 2 shall be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate. Plans and specifications shall address the following:

- floor plans, showing the layout of the fixtures and fittings, food storage and staff personal effects storage areas
- elevations and sections showing floor, wall and ceiling construction and finishes
- elevations and sections showing the installation of fixtures and fittings
- cool room/freezer construction
- internal garbage room/grease trap room construction and ventilation
- external garbage storage area
- external grease trap area
- all proposed mechanical ventilation systems
- staff disabled and public toilet facilities

Reason: To ensure compliance with standards for food premises.

Conditions to be satisfied prior to the issue of the construction certificate or prior to demolition, excavation or construction (whichever comes first):

44. Infrastructure restorations fee

To ensure that damage to Council Property as a result of construction activity is rectified in a timely matter:

- a) All work or activity taken in furtherance of the development the subject of this approval must be undertaken in a manner to avoid damage to Council Property and must not jeopardise the safety of any person using or occupying the adjacent public areas.
- b) The applicant, builder, developer or any person acting in reliance on this approval shall be responsible for making good any damage to Council Property, and for the removal from Council Property of any waste bin, building materials, sediment, silt, or any other material or article.
- c) The Infrastructure Restoration Fee must be paid to the Council by the applicant prior to both the issue of the Construction Certificate and the commencement of any earthworks or construction.
- d) In consideration of payment of the Infrastructure Restorations Fee, Council will undertake such inspections of Council Property as Council considers necessary and also undertake, on behalf of the applicant, such restoration work to Council Property, if any, that Council considers necessary as a consequence of the development. The provision of such restoration work by the Council does not absolve any person of the responsibilities contained in (a) to (b) above. Restoration work to be undertaken by the Council referred to in this condition is limited to work that can be undertaken by Council at a cost of not more than the Infrastructure Restorations Fee payable pursuant to this condition.
- e) In this condition:

“Council Property” includes any road, footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, letter bins, trees, shrubs, lawns, mounds, bushland,

and similar structures or features on any road or public road within the meaning of the Local Government Act 1993 (NSW) or any public place; and

“Infrastructure Restoration Fee” means the Infrastructure Restorations Fee calculated in accordance with the Schedule of Fees & Charges adopted by Council as at the date of payment and the cost of any inspections required by the Council of Council Property associated with this condition.

Reason: To maintain public infrastructure.

45. Heritage conservation management plan

Prior to issue of a Construction Certificate, the applicant shall submit a heritage conservation management plan to Council’s Heritage Advisor for approval. A written acknowledgement from Council’s Heritage Advisor must be obtained (attesting to this condition being appropriately satisfied) and submitted to the Certifying Authority prior to the issue of the Construction Certificate.

The heritage conservation management plan is to be undertaken by a suitably qualified person and shall include details of conservation works to be undertaken to “Woonona Cottage”. All necessary conservation works identified in the heritage conservation management plan are to have been carried out and completed prior to the issue of the Occupation Certificate for the dementia care facility.

Reason: To protect the adjoining heritage item.

46. Tree protection bond

Prior to the commencement of any development or excavation works or prior to the issue of the Construction Certificate (whichever comes first) the applicant must lodge a \$6,000.00 tree protection bond with Council. This bond is to provide security that the following trees are maintained in a healthy condition as found prior to commencement of work upon the site:

Schedule

Tree/Location	Bond value
Tree 1 - <i>Liquidambar styraciflua</i> (Liquidambar) / Woonona Avenue nature strip	\$1,500.00
Tree 3 - <i>Liquidambar styraciflua</i> (Liquidambar) / Woonona Avenue nature strip	\$1,500.00
Tree 4 - <i>Liquidambar styraciflua</i> (Liquidambar) / Woonona Avenue nature strip	\$1,500.00
Tree 5 - <i>Liquidambar styraciflua</i> (Liquidambar) / Woonona Avenue nature strip	\$1,500.00

The bond shall be lodged in the form of a deposit or bank guarantee. The bond will be returned following issue of the Occupation Certificate, provided the trees are undamaged and are in a healthy condition.

In the event that any specified trees are found damaged, dying or dead as a result of any negligence by the applicant or its agent or as a result of the construction works at any time during the construction period, Council will have the option to demand the whole or part therefore of the bond.

Reason: To ensure that the trees are maintained in the same condition as found prior to commencement of work.

47. Section 94 Development Contributions – Wahroonga Local Centre

Were the proposed facility to be operated on a 'for profit basis', this development would be subject to a development contribution calculated in accordance with Ku-ring-gai Contributions Plan 2010, being a s94 Contributions Plan in effect under the Environmental Planning and Assessment Act, as follows:

Key Community Infrastructure	Amount
Local parks and local sporting facilities	\$321,075.47
Local recreation and cultural facilities;	\$54,946.00
Local social facilities	
Local Roads, Local Bus Facilities &	\$25,445.06
Local Drainage Facilities	
Total:	\$401,466.53

The whole of this contribution shall be **fully suspended** for so long as the dementia care facility the subject of this consent remains operated on a not-for-profit basis. In the event this facility becomes a 'for-profit' or a commercial operation, this contribution will become due and payable inclusive of full indexation to reflect changes in the consumer price index and housing price index from the date of calculation (March Quarter 2012) in accordance with Ku-ring-gai Contributions Plan 2010. These contributions will become due and payable at the elapse of one calendar month of the change of operation or ownership. Prior to payment, the new owner/operator is advised to contact Council directly to verify the current payable contributions.

Ku-ring-gai Contributions Plan 2010 may be viewed online at www.kmc.nsw.gov.au and at the Council Chambers.

Conditions to be satisfied during the demolition, excavation and construction phases:

48. Prescribed conditions

The applicant shall comply with any relevant prescribed conditions of development consent under clause 98 of the Environmental Planning and Assessment Regulation. For the purposes of section 80A (11) of the Environmental Planning and Assessment Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- The work must be carried out in accordance with the requirements of the Building Code of Australia
- In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any works commence.

Reason: Statutory requirement.

49. Hours of work

Demolition, excavation, construction work and deliveries of building material and equipment must not take place outside the hours of 7.00am to 5.00pm Monday to Friday and 8.00am to 12 noon Saturday. No work and no deliveries are to take place on Sundays and public holidays.

Excavation or removal of any materials using machinery of any kind, including compressors and jack hammers, must be limited to between 7.30am and 5.00pm Monday to Friday, with a respite break of 45 minutes between 12 noon 1.00pm.

Where it is necessary for works to occur outside of these hours (ie) placement of concrete for large floor areas on large residential/commercial developments or where building processes require the use of oversized trucks and/or cranes that are restricted by the RTA from travelling during daylight hours to deliver, erect or remove machinery, tower cranes, pre-cast panels, beams, tanks or service equipment to or from the site, approval for such activities will be subject to the issue of an "outside of hours works permit" from Council as well as notification of the surrounding properties likely to be affected by the proposed works.

Note: Failure to obtain a permit to work outside of the approved hours will result in on the spot fines being issued.

Reason: To ensure reasonable standards of amenity for occupants of neighbouring properties.

50. Approved plans to be on site

A copy of all approved and certified plans, specifications and documents incorporating conditions of consent and certification (including the Construction Certificate if required for the work) shall be kept on site at all times during the demolition, excavation and construction phases and must be readily available to any officer of Council or the Principal Certifying Authority.

Reason: To ensure that the development is in accordance with the determination.

51. Statement of compliance with Australian Standards

The demolition work shall comply with the provisions of Australian Standard AS2601: 2001 The Demolition of Structures. The work plans required by AS2601: 2001 shall be accompanied by a written statement from a suitably qualified person that the proposal

contained in the work plan comply with the safety requirements of the Standard. The work plan and the statement of compliance shall be submitted to the satisfaction of the Principal Certifying Authority prior to the commencement of any works.

Reason: To ensure compliance with the Australian Standards.

52. Construction noise

During excavation, demolition and construction phases, noise generated from the site shall be controlled in accordance with the recommendations of the approved noise and vibration management plan.

Reason: To ensure reasonable standards of amenity to neighbouring properties.

53. Site notice

A site notice shall be erected on the site prior to any work commencing and shall be displayed throughout the works period.

The site notice must:

- be prominently displayed at the boundaries of the site for the purposes of informing the public that unauthorised entry to the site is not permitted
- display project details including, but not limited to the details of the builder, Principal Certifying Authority and structural engineer
- be durable and weatherproof
- display the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice
- be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted

Reason: To ensure public safety and public information.

54. Dust control

During excavation, demolition and construction, adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood. The following measures must be adopted:

- physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust
- earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed
- all materials shall be stored or stockpiled at the best locations
- the ground surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs

- all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust
- all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays
- gates shall be closed between vehicle movements and shall be fitted with shade cloth
- cleaning of footpaths and roadways shall be carried out daily

Reason: To protect the environment and amenity of surrounding properties.

55. Further geotechnical input

The geotechnical and hydro-geological works implementation, inspection, testing and monitoring program for the excavation and construction works must be in accordance with the report by Jeffery and Katauskas and the additional report submitted prior to commencement of works. Over the course of the works, a qualified geotechnical/hydro-geological engineer must complete the following:

- further geotechnical investigations and testing recommended in the above report(s) and as determined necessary
- further monitoring and inspection at the hold points recommended in the above report(s) and as determined necessary
- written report(s) including certification(s) of the geotechnical inspection, testing and monitoring programs

Reason: To ensure the safety and protection of property.

56. Compliance with submitted geotechnical report

A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee excavation.

Geotechnical aspects of the development work, namely:

- appropriate excavation method and vibration control
- support and retention of excavated faces
- hydro-geological considerations

must be undertaken in accordance with the recommendations of the geotechnical report prepared by Jeffery and Katauskas and the report submitted prior to commencement of works. Approval must be obtained from all affected property owners, including Ku-ring-gai Council, where rock anchors (both temporary and permanent) are proposed below adjoining property(ies).

Reason: To ensure the safety and protection of property.

57. Use of road or footpath

During excavation, demolition and construction phases, no building materials, plant or the like are to be stored on the road or footpath without written approval being obtained from Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.

Reason: To ensure safety and amenity of the area.

58. Guarding excavations

All excavation, demolition and construction works shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.

Reason: To ensure public safety.

59. Toilet facilities

During excavation, demolition and construction phases, toilet facilities are to be provided, on the work site, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Reason: Statutory requirement.

60. Protection of public places

If the work involved in the erection, demolition or construction of the development is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or 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, a hoarding 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 hoarding, fence or awning is to be removed when the work has been completed.

Reason: To protect public places.

61. Recycling of building material (general)

During demolition and construction, the Principal Certifying Authority shall be satisfied that building materials suitable for recycling have been forwarded to an appropriate registered business dealing in recycling of materials. Materials to be recycled must be kept in good order.

Reason: To facilitate recycling of materials.

62. Construction signage

All construction signs must comply with the following requirements:

- are not to cover any mechanical ventilation inlet or outlet vent
- are not illuminated, self-illuminated or flashing at any time
- are located wholly within a property where construction is being undertaken
- refer only to the business(es) undertaking the construction and/or the site at which the construction is being undertaken
- are restricted to one such sign per property
- do not exceed 2.5m²
- are removed within 14 days of the completion of all construction works

Reason: To ensure compliance with Council's controls regarding signage.

63. Approval for rock anchors

Approval is to be obtained from the property owner for any anchors proposed beneath adjoining private property. If such approval cannot be obtained, then the excavated faces are to be shored or propped in accordance with the recommendations of the geotechnical and structural engineers.

Reason: To ensure the ongoing safety and protection of property.

64. Maintenance period for works in public road

A maintenance period of six (6) months applies to all work in the public road reserve carried out by the applicant - after the works have been completed to the satisfaction of Ku-ring-gai Council. In that maintenance period, the applicant shall be liable for any section of the public infrastructure work which fails to perform in the designed manner, or as would reasonably be expected under the operating conditions. The maintenance period shall commence once the applicant receives a formal letter from Council stating that the works involving public infrastructure have been completed satisfactorily.

Reason: To protect public infrastructure.

65. Road reserve safety

All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". If pedestrian circulation is not satisfactorily

maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.

Reason: To ensure safe public footways and roadways during construction.

66. Road repairs necessitated by excavation and construction works

It is highly likely that damage will be caused to the roadway at or near the subject site as a result of the construction (or demolition or excavation) works. The applicant, owner and builder (and demolition or excavation contractor as appropriate) will be held responsible for repair of such damage, regardless of the Infrastructure Restorations Fee paid (this fee is to cover wear and tear on Council's wider road network due to heavy vehicle traffic, not actual major damage).

Section 102(1) of the Roads Act states "A person who causes damage to a public road is liable to pay to the appropriate roads authority the cost incurred by that authority in making good the damage."

Council will notify when road repairs are needed, and if they are not carried out within 48 hours, then Council will proceed with the repairs, and will invoice the applicant, owner and relevant contractor for the balance.

Reason: To protect public infrastructure.

67. Services

Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the applicants' full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services (including water, phone, gas and the like). Council accepts no responsibility for any matter arising from its approval to this application involving any influence upon utility services provided by another authority.

Reason: Provision of utility services.

68. Temporary rock anchors

If the use of temporary rock anchors extending into the road reserve is proposed, then approval must be obtained from Council and/or the Roads and Traffic Authority in accordance with Section 138 of the Roads Act 1993. The Applicant is to submit details of all the work that is to be considered, and the works are not to commence until approval has been granted. The designs are to include details of the following:

- How the temporary rock anchors will be left in a way that they will not harm or interfere with any future excavation in the public road
 - That the locations of the rock anchors are registered with Dial Before You Dig
 - That approval of all utility authorities likely to use the public road has been obtained.
- All temporary rock anchors are located outside the allocations for the various

- utilities as adopted by the Streets Opening Conference.
- That any remaining de-stressed rock anchors are sufficiently isolated from the structure that they cannot damage the structure if pulled during future excavations or work in the public road.
- That signs will be placed and maintained on the building stating that de-stressed rock anchors remain in the public road and include a contact number for the building manager. The signs are to be at least 600mm x 450mm with lettering on the signs is to be no less than 75mm high. The signs are to be at not more than 60m spacing. At least one sign must be visible from all locations on the footpath outside the property. The wording on the signs is to be submitted to Council's Director Technical Services for approval before any signs are installed.

Permanent rock anchors are not to be used where any part of the anchor extends outside the development site into public areas or road reserves.

All works in the public road are to be carried out in accordance with the Conditions of Construction issued with any approval of works granted under Section 138 of the Roads Act 1993.

Reason: To ensure the ongoing safety and protection of property.

69. Drainage to street

Stormwater runoff from all new impervious areas and subsoil drainage systems shall be piped to the street drainage system. New drainage line connections to the street drainage system shall conform and comply with the requirements of Sections 5.3 and 5.4 of Ku-ring-gai Water Management Development Control Plan No. 47.

Reason: To protect the environment.

70. Sydney Water Section 73 Compliance Certificate

The applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing CoOrdinator. The applicant is to refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-develop" icon or telephone 13 20 92. Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the CoOrdinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

Reason: Statutory requirement.

71. Arborist's report

The tree/s to be retained shall be inspected, monitored and treated by a qualified Arborist during and after completion of development works to ensure their long term survival. Regular inspections and documentation from the Arborist to the Principal Certifying Authority are required at the following times or phases of work:

Schedule**Tree/Location**

Tree's 1, 3, 4 & 5 – 4 x *Liquidambar styraciflua*
(Liquidambar)
/ Woonona Avenue nature strip

Tree 15 – *Chamaecyparis funebris* (Chinese Weeping
Cypress)
/ Northern side of Woonona Cottage

Rhododendron sp. (Broad leaf Rhododendron)
/ Northern side of Woonona Cottage

Time of inspection

During demolition
works & construction
of the front fence,
footpath & Aged care
facility

During earthworks
and construction of
the basement
carpark

During earthworks
and construction of
the basement
carpark

Reason: To ensure protection of existing trees.

72. Trees on nature strip

Removal/pruning of the following tree/s from Council's nature strip to permit vehicular access shall be undertaken at no cost to Council by an experienced tree removal contractor/arborist holding public liability insurance amounting to a minimum cover of \$20,000,000:

Schedule**Tree/Location**

Tree 2 – *Liquidambar styraciflua* (Liquidambar)
/ Woonona Ave on the southern side of the new driveway

Reason: To ensure protection of existing trees.

73. Treatment of tree roots

If tree roots are required to be severed for the purposes of constructing the approved works, they shall be cut cleanly by hand, by an experienced Arborist/Horticulturist with a minimum qualification of Horticulture Certificate or Tree Surgery Certificate. All pruning works shall be undertaken as specified in Australian Standard 4373-2007 – Pruning of Amenity Trees.

Reason: To protect existing trees.

74. Cutting of tree roots

No tree roots of 30mm or greater in diameter located within the specified radius of the trunk/s of the following tree/s shall be severed or injured in the process of any works during the construction period. All pruning works shall be undertaken as specified in Australian Standard 4373-2007 – Pruning of Amenity Trees:

Schedule**Tree/Location**

Tree's 1, 3, 4 & 5 –

4 x *Liquidambar styraciflua* (Liquidambar)

/ Woonona Avenue nature strip

Radius from trunk

5 metres

Reason: To protect existing trees.**75. Approved tree works**

Approval is given for the following works to be undertaken to trees on the site:

Schedule**Tree/Location****Approved tree works**Tree 2 – *Liquidambar styraciflua* (Liquidambar)

Remove

/ Woonona Ave nature strip north western side of
new drivewayTree 9 – *Chamaecyparis obtusa* (Hinoki False
Cypress)

Remove

/ Western (front) boundary

Ginkgo biloba (Maiden-hair Tree)

Remove

/ Western (front) boundary

Tree 11 – Unidentified rainforest species

Remove

/ Western (front) boundary

Tree 12 – *Cupressus species* (Cypress)

Remove

/ Western (front) boundary

Cupressus species (Cypress)

Remove

/ Western (front) boundary

Tree 16 – *Brachychiton acerifolius* (Flame Tree)

Remove

/ Eastern (rear) boundary

Tree 42 – *Cupressocyparis x leylandii* (Leyland
Cypress)

Remove

/ Within the building footprint

Tree 43 – *Lophostemon confertus* (Brushbox)

Remove

/ Eastern (rear) boundary

Tree 44 – *Stenocarpus sinuatus* (Firewheel Tree)

Remove

/ Eastern (rear) boundary

Tree 45 – *Archontophoenix alexandrae* (Alexander
Palm)

Remove

/ Eastern (rear) boundary

Tree 46 – *Jacaranda mimosifolia* (Remove
Jacaranda)

Remove

/ Within building footprint

Tree 47 – *Archontophoenix alexandrae* (Alexander
Palm)

Remove

/ Within building footprint

Tree 48 – 9 x *Podocarpus falcatus* (Common
Yellowwood)

Remove

/ Eastern (rear) boundary	
2 x <i>Photinia</i> sp (Hawthorn)	Remove
/ Northern side boundary	
2 x <i>Cupaniopsis anacardioides</i> (Tuckeroo)	Remove
/ Northern side boundary	
<i>Alectryon tomentosus</i> (Rambutan)	Remove
/ Northern side boundary	

Removal or pruning of any other tree on the site is not approved, excluding species exempt under Council's Tree Preservation Order.

Reason: To ensure that the development is in accordance with the determination.

76. Hand excavation

All excavation within the specified radius of the trunk/s of the following tree/s shall be hand dug:

Schedule

Tree/Location

Tree's 1, 3, 4 & 5 –

4 x *Liquidambar styraciflua* (Liquidambar)

/ Woonona Avenue nature strip

Radius from trunk

5 metres

Reason: To protect existing trees.

77. No storage of materials beneath trees

No activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order at any time.

Reason: To protect existing trees.

78. Tree planting on nature strip

The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along Woonona Avenue. The tree shall be a minimum 75 litres container size specimen:

Schedule

Tree/Species

Liquidambar styraciflua
(Liquidambar)

Quantity

1

Location

Between the new driveway
and Tree 3

Reason: To provide appropriate landscaping within the streetscape.

79. Tree removal on nature strip

Following removal of the Tree 2 – *Liquidambar styraciflua* (Liquidambar) from Council's

nature strip, the nature strip shall be rehabilitated to the satisfaction of Council's Landscape Assessment Officer at no cost to Council.

Reason: To protect the streetscape.

80. Supervision of transplanting

Transplanting of the following trees/shrubs shall be directly supervised by an experienced arborist/horticulturist with a minimum qualification of Horticulture Certificate or Tree Surgery Certificate.

Species/location

Camellia japonica (Japanese Camellia)

Rhododendron indica (Azalea)

Magnolia x soulangiana (Magnolia)

Lagerstroemia indica (Crepe Myrtle)

/ Garden bed immediately adjacent to the northern side of Woonona Cottage

Reason: To protect the trees during transplanting.

81. Removal of refuse

All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.

Reason: To protect the environment.

82. Canopy replenishment trees to be planted

The canopy replenishment trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will be protected by Council's Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.

Reason: To maintain the treed character of the area.

83. Survey and inspection of waste collection clearance and path of travel

If it is intended to engage Council's contractors for the collection of garbage and mixed recycling, then at the stage when formwork for the ground floor slab is in place and prior to concrete being poured, a registered surveyor is to:

- ascertain the reduced level of the underside of the slab at the driveway entry,
- certify that the level is not lower than the level shown on the approved DA plans; and
- certify that the minimum headroom of 2.6 metres will be available for the full path of travel of the small waste collection vehicle from the street to the collection area.
- This certification is to be provided to Council's Development Engineer prior to any

- concrete being poured for the ground floor slab.
- No work is to proceed until Council has undertaken an inspection to determine clearance and path of travel.

At the stage when formwork for the ground floor slab is in place and prior to concrete being poured, Council's Development Engineer and Manager Waste Services are to carry out an inspection of the site to confirm the clearance available for the full path of travel of the small waste collection vehicle from the street to the collection area. This inspection may not be carried out by a private certifier because waste management is not a matter listed in Clause 161 of the Environmental Planning and Assessment Regulation 2000.

Reason: To ensure access will be available for Council's contractors to collect waste from the collection point.

84. On site retention of waste dockets

All demolition, excavation and construction waste dockets are to be retained on site, or at suitable location, in order to confirm which facility received materials generated from the site for recycling or disposal.

- Each docket is to be an official receipt from a facility authorised to accept the material type, for disposal or processing.
- This information is to be made available at the request of an Authorised Officer of Council.

Reason: To protect the environment.

Conditions to be satisfied prior to the issue of an Occupation Certificate:

85. Easement for waste collection

If it is intended to engage Council's contractor for the collection of garbage or mixed recycling, then prior to issue of the Occupation Certificate, an easement for waste collection is to be created under Section 88B or 88E of the Conveyancing Act 1919. This is to permit legal access for Council, Council's contractors and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection and shall be to the satisfaction of Council's Development Engineer.

Reason: To permit legal access for Council, Council's contractors and their vehicles over the subject site for waste collection.

86. Mechanical ventilation

Following completion, installation and testing of all the mechanical ventilation systems, the Principal Certifying Authority shall be satisfied of the following prior to the issue of any Occupation Certificate:

1. The installation and performance of the mechanical systems complies with:

- The Building Code of Australia
 - Australian Standard AS1668
 - Australian Standard AS3666 where applicable
2. The mechanical ventilation system in isolation and in association with other mechanical ventilation equipment, when in operation will not be audible within a habitable room in any other residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and public holidays. The operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measured at the nearest adjoining boundary.

Note: Written confirmation from an acoustic engineer that the development achieves the above requirements is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To protect the amenity of surrounding properties.

87. Completion of landscape works

Prior to the release of the Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious and/or environmental weed species, have been undertaken in accordance with the approved plan(s) and conditions of consent.

Reason: To ensure that the landscape works are consistent with the development consent.

88. Accessibility

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that:

- the lift design and associated functions are compliant with AS 1735.12 & AS 1428.2
- the level and direction of travel, both in lifts and lift lobbies, is audible and visible
- the controls for lifts are accessible to all persons and control buttons and lettering are raised
- international symbols have been used with specifications relating to signs, symbols and size of lettering complying with AS 1428.2
- the height of lettering on signage is in accordance with AS 1428.1 – 1993
- the signs and other information indicating access and services incorporate tactile communication methods in addition to the visual methods

Reason: Disabled access & services.

89. Provision of copy of OSD designs if Council is not the PCA

Prior to issue of the Occupation Certificate, the following must be provided to Council's

Development Engineer:

- a copy of the approved Construction Certificate stormwater detention/retention design for the site
- A copy of any works-as-executed drawings required by this consent
- The Engineer's certification of the as-built system.

Reason: For Council to maintain its database of as-constructed on-site stormwater detention systems.

90. Certification of drainage works

Prior to issue of the Occupation Certificate, the Principal Certifying Authority is to be satisfied that:

- the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans
- the minimum retention and on-site detention storage volume requirements of BASIX and Ku-ring-gai Water Management Development Control Plan No. 47 respectively, have been achieved
- retained water is connected and available for use
- all grates potentially accessible by children are secured
- components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage Code AS3500.3 2003 and the Building Code of Australia
- all enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices

The rainwater certification sheet contained in Appendix 13 of the Ku-ring-gai Water Management Development Control Plan No. 47, must be completed and attached to the certification. Where an on-site detention system has been constructed, the on-site detention certification sheet contained in Appendix 4 of DCP 47 must also be completed and attached to the certification.

Note: Evidence from a qualified and experienced consulting civil/hydraulic engineer documenting compliance with the above is to be provided to Council prior to the issue of an Occupation Certificate.

Reason: To protect the environment.

91. WAE plans for stormwater management and disposal

Prior to issue of the Occupation Certificate, a registered surveyor must provide a works as executed survey of the completed stormwater drainage and management systems. The survey must be submitted to and approved by the Principal Certifying Authority prior to issue of the Occupation Certificate. The survey must indicate:

- as built (reduced) surface and invert levels for all drainage pits

- gradients of drainage lines, materials and dimensions
- as built (reduced) level(s) at the approved point of discharge to the public drainage system
- as built location and internal dimensions of all detention and retention structures on the property (in plan view) and horizontal distances to nearest adjacent boundaries and structures on site
- the achieved storage volumes of the installed retention and detention storages and derivative calculations
- as built locations of all access pits and grates in the detention and retention system(s), including dimensions
- the size of the orifice or control fitted to any on-site detention system
- dimensions of the discharge control pit and access grates
- the maximum depth of storage possible over the outlet control
- top water levels of storage areas and indicative RL's through the overland flow path in the event of blockage of the on-site detention system

The works as executed plan(s) must show the as built details above in comparison to those shown on the drainage plans approved with the Construction Certificate prior to commencement of works. All relevant levels and details indicated must be marked in red on a copy of the Principal Certifying Authority stamped construction certificate stormwater plans.

Reason: To protect the environment.

92. OSD positive covenant/restriction

Prior to issue of the Occupation Certificate, the applicant must create a positive covenant and restriction on the use of land under Section 88E of the Conveyancing Act 1919, burdening the owner with the requirement to maintain the on-site stormwater detention facilities on the lot.

The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" and to the satisfaction of Council (refer to appendices of Ku-ring-gai Council Water Management DCP 47). For existing titles, the positive covenant and the restriction on the use of land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the on-site detention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

Registered title documents, showing the covenants and restrictions, must be submitted and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.

Reason: To protect the environment.

93. Sydney Water Section 73 Compliance Certificate

Prior to issue of an Occupation Certificate the Section 73 Sydney water Compliance

Certificate must be obtained and submitted to the Principal Certifying Authority

Reason: Statutory requirement.

94. Certification of as-constructed driveway/carpark

Prior to issue of an Occupation Certificate, the Principal Certifying Authority is to be satisfied that:

- the as-constructed car park complies with the approved Construction Certificate plans
- the completed vehicle access and accommodation arrangements comply with Australian Standard 2890.1 – 2004 “Off-Street car parking” in terms of minimum parking space dimensions
- finished driveway gradients and transitions will not result in the scraping of the underside of cars
- no doors, gates, grilles or other structures have been provided in the access driveways to the basement carpark, which would prevent unrestricted access for internal garbage collection from the basement garbage storage and collection area
- the vehicular headroom requirements of:
 - Australian Standard 2890.1 – “Off-street car parking”,
 - **2.6 metres** height clearance for waste collection trucks (refer DCP 40) are met from the public street into and within the applicable areas of the basement carpark.

Note: Evidence from a suitably qualified and experienced traffic/civil engineer indicating compliance with the above is to be provided to and approved by the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Reason: To ensure that vehicular access and accommodation areas are compliant with the consent.

95. Reinstatement of redundant crossings and completion of infrastructure works

Prior to issue of the Occupation Certificate, and upon completion of all works which may cause damage to Council's infrastructure, the Principal Certifying Authority must be satisfied that he or she has received a signed inspection form from Council which states that the following works in the road reserve have been completed:

- new concrete driveway crossing in accordance with levels and specifications issued by Council
- removal of all redundant driveway crossings and kerb laybacks (or sections thereof) and reinstatement of these areas to footpath, turfed verge and upright kerb and gutter (reinstatement works to match surrounding adjacent infrastructure with

- respect to integration of levels and materials)
- full repair and resealing of any road surface damaged during construction
- full replacement of damaged sections of grass verge to match existing

This inspection may not be carried out by the Private Certifier because restoration of Council property outside the boundary of the site is not a matter listed in Clause 161 of the Environmental Planning and Assessment Regulation 2000.

All works must be completed in accordance with the General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council, dated November 2004. The Occupation Certificate must not be issued until all damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) is fully repaired to the satisfaction of Council. Repair works shall be at no cost to Council.

Reason: To protect the streetscape.

96. Construction of works in public road – approved plans

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that all approved road, footpath and/or drainage works have been completed in the road reserve in accordance with the Council Roads Act approval and accompanying drawings, conditions and specifications.

The works must be supervised by the applicant's designing engineer and completed and approved to the satisfaction of Ku-ring-gai Council.

The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved stamped drawings. The works must be subject to inspections by Council at the hold points noted on the Roads Act approval. All conditions attached to the approved drawings for these works must be met prior to the Occupation Certificate being issued.

Reason: To ensure that works undertaken in the road reserve are to the satisfaction of Council.

97. Mechanical ventilation

Prior to the issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that all mechanical ventilation systems are installed in accordance with Part F4.5 of the Building Code of Australia and comply with Australian Standards AS1668.2 and AS3666 Microbial Control of Air Handling and Water Systems of Building.

Reason: To ensure adequate levels of health and amenity to the occupants of the building.

98. Fire safety certificate

Prior to the issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that a Fire Safety Certificate for all the essential fire or other safety measures forming part of this consent has been completed and provided to Council.

Note: A copy of the Fire Safety Certificate must be submitted to Council.

Reason: To ensure suitable fire safety measures are in place.

Conditions to be satisfied at all times:

99. Use of Facility

The facility shall only be occupied by persons with dementia or dementia like symptoms. The facility shall not be operated as a 'general hospital' with in and out patients without the prior consent of Council.

Reason: To ensure the proper management of impact.

100. Noise control – plant and machinery

All noise generating equipment associated with any proposed mechanical ventilation system/s shall be located and/or soundproofed so the equipment is not audible within a habitable room in any other residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and public holidays. The operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measured at the nearest boundary.

Reason: To protect the amenity of surrounding residents.

101. Loading and unloading

At all times, all loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the site.

Reason: To ensure safe traffic movement.

A Richardson
Executive Assessment Officer

S Segall
**Team Leader
Development Assessment**

C Swanepoel
**Manager
Development Assessment Services**

M Miocic
**Director
Development & Regulation**

Attachments:

1. Locality Map
2. Zoning Extract
3. Basement Plans
4. Site Plans
5. Floor Plans
6. Elevations
7. Sections
8. Landscape Plans