

2013SYE086 – 1-25 Acacia Road, Kirrawee  
DA13/0898

## ASSESSMENT REPORT APPENDICES

Appendix	A	Draft Conditions of Consent
	B	PAD Letter (dated 13/6/2013)
	C	Pre-ARAP Report (dated 11/7/2013)
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**Draft Conditions of Consent  
Development Application No. 13/0898**

**PART 1 - DEFERRED COMMENCEMENT CONDITIONS**

To enable the submission of further information to clarify or resolve specific aspects of the proposed development this Development Consent is issued as a "Deferred Commencement" Consent under the provisions of Section 80(3) of the Environmental Planning and Assessment Act as amended. The Consent does not operate until the applicant satisfies the Council as to the following matters.

The required information must be submitted within 2 years of the date of issue of this development consent.

Note- Under the provisions of Clause 95A(5) of the Environmental Planning and Assessment Regulation 2000 upon submission of the required information, Council must advise in writing whether or not it is satisfied as to the relevant matters.

**1. Approvals Required**

- a) The proposed courtyard and landscaping works adjoining the eastern boundary of the site within the unmade portion of Acacia Road shall be subject to the authorisation and formal agreement of Council's Civil Assets Department and Assets Management Group.
- b) The proposed Asset Protection Zone works within the northern portion of the Acacia Road shall be subject to the authorisation and formal agreement of Council's Civil Assets Department and Assets Management Group.
- c) There shall be no construction undertaken adjacent to the existing easement for transmission lines until an agreement between the property owner and Ausgrid has been formalised and evidence of such has been supplied to Council's Director, Planning and Environment.

## PART 2 - CONDITIONS OF CONSENT

### 2. Approved Plans and Documents (UNI2005)

The development must be undertaken substantially in accordance with the details and specifications set out on the Plan / Drawings:

<i>Plan number</i>	<i>Reference</i>	<i>Prepared by</i>	<i>Date</i>
2012126 / DA000 issue A	Cover Page	Jackson Teece Architecture	23-09-2013
2012126 / DA001 issue A	Site and Context Analysis Plan	Jackson Teece Architecture	23-09-2013
2012126 / DA100 issue A	Site Plan	Jackson Teece Architecture	23-09-2013
2012126 / DA101 issue A	Floor Plan Level 1 - Basement	Jackson Teece Architecture	23-09-2013
2012126 / DA102 issue A	Floor Plan Level 02	Jackson Teece Architecture	23-09-2013
2012126 / DA103 issue A	Floor Plan Level 03	Jackson Teece Architecture	23-09-2013
2012126 / DA104 issue A	Floor Plan Level 04 - Entrance	Jackson Teece Architecture	23-09-2013
2012126 / DA105 issue A	Floor Plan Level 05	Jackson Teece Architecture	23-09-2013
2012126 / DA106 issue A	Floor Plan Level 06	Jackson Teece Architecture	23-09-2013
2012126 / DA107 issue A	Floor Plan Level 07	Jackson Teece Architecture	23-09-2013
2012126 / DA108 issue A	Floor Plan Roof	Jackson Teece Architecture	23-09-2013
2012126 / DA300 issue A	Elevation North and South	Jackson Teece Architecture	23-09-2013
2012126 / DA301 issue A	Elevation East and West	Jackson Teece Architecture	23-09-2013
2012126 / DA400 issue A	Section	Jackson Teece Architecture	23-09-2013

and any details on the application form and on any supporting information received with the application except as amended by the following conditions.

**Note:** The following must be submitted to Sutherland Shire Council prior to the commencement of any building work.

- i) A Construction Certificate.
- ii) Notification of the appointment of a Principal Certifying Authority and a letter of acceptance from that Principal Certifying Authority.
- iii) Notification of the commencement of building with a minimum of 2 days notice of such commencement.

### **3. Integrated Development Approval - Requirement of Approval Bodies (UNI2025)**

#### **A. General Terms of Approval from Other Approval Bodies**

The development must be undertaken in accordance with all General Terms of Approval (GTA) of the following approval bodies under Section 91A of the Environmental Planning and Assessment Act 1979:

- Rural Fire Services

A copy of the GTA and any further requirements of the approval body/bodies are attached to this development consent. These requirements must be incorporated in the application for a Construction Certificate.

### **4. Public Place Environmental, Damage & Performance Security Bond (FIN1015)**

#### **A. Before Construction**

Prior to the issue of a Construction Certificate, the person acting on this consent must provide security to Sutherland Shire Council against damage caused to any Council property and / or the environment as a consequence of the implementation of this consent. The security may be provided by way of a deposit with Council or a bank guarantee. A non refundable inspection / administration fee is included in the bond value.

It is the responsibility of the person acting on this consent to notify Sutherland Shire Council of any existing damage to public areas in the vicinity of the development site by the submission of a current dilapidation report supported by photographs. This information must be submitted to Council at least two (2) days prior to the commencement of works.

In the event that the dilapidation report is not submitted two days prior to commencement and the public area sustains damage the person acting on this consent may be held liable.

Should any public property and / or the environment sustain damage as a result of the works associated with this consent, or if the works put Council's assets or the environment at risk, Council may carry out any works necessary to repair the damage and / or remove the risk. The costs incurred must be deducted from the bond.

The value of the bond is \$10,200

**Note:** Bond amount includes a non refundable administration fee which must be paid separately.

Use of Bank Guarantee - As bond releases may occur under different timeframes only one bond amount / bond purpose is permitted on a Bank Guarantee. Multiple bonds will require multiply bank guarantees to be lodged.

#### **B. After Occupation**

A request for release of the bond may be made to Sutherland Shire Council after all works relating to this consent have been completed. Such a request must be submitted to Council on the 'Bond Release Request Form' signed by the owner or any person entitled to act on the consent and must be accompanied by a current dilapidation report including photographs.

## **5. Approvals Required under Roads Act or Local Government Act (ENG1005)**

### **A. Before Construction**

No occupation or works are to be carried out on public land (including a road or footpath) or access provided over a public reserve adjacent to the development site without approval being obtained from Sutherland Shire Council and the necessary fee paid under the Roads Act 1993 and/or the Local Government Act 1993.

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

## **6. Design and Construction of Works in Road Reserve (ENG2005)**

The implementation of this Consent generates a need for works to be completed in the road reserve.

### **A. Before Construction**

To enable the scope of works to be determined and alignment levels issued an application for a detailed frontage design must be submitted together with the required fee, under the Roads Act 1993 and/or the Local Government Act 1993.

The works required will be determined using the following criteria:

- i) Infrastructure construction and reconstruction required to facilitate both pedestrian and vehicular access into and around the site.
- ii) Construction and reconstruction of stormwater infrastructure to facilitate drainage of the site and minimise impacts to the site and adjoining properties as a result of the development.
- iii) To ensure that infrastructure relevant to the proposed development meets current standards and specifications.
- iv) To mitigate any impacts the development may have on traffic and pedestrian safety.
- v) To satisfy the requirements of any Development Control Plan or any other relevant Council Plan.
- vi) To ensure there are adequate transitions between newly constructed and existing infrastructure.

### **B. Before Occupation**

All works required in the road reserve as required in the detailed frontage design provided by Council must be completed before occupation of the development.

## **7. Site Management Plan (ENG2010)**

### **A. Before Commencement of Works including Demolition**

An Environmental Site Management Plan must accompany the application for a Construction Certificate. If demolition is to commence prior to the issue of a Construction Certificate the applicant must submit to Sutherland Shire Council a separate Demolition Site Management Plan. These plans must satisfy the Objectives and Controls of Sutherland Shire Development Control Plan 2006 relating to environmental site management and must incorporate the following throughout demolition and construction:

- i) safe access to and from the site during construction and demolition
- ii) safety and security of the site, road and footpath area including details of proposed fencing, hoarding and lighting
- iii) method of loading and unloading excavation machines, building materials
- iv) how and where, construction materials, excavated and waste materials will be stored.
- v) methods to prevent material being tracked off the site onto surrounding roadways
- vi) erosion and sediment control measures

### **B. During Works**

The site management measures set out in the above plan must remain in place and be maintained throughout the period of works and until the site has been stabilised and landscaped.

## **8. Pre-commencement Inspection (ENG3015)**

### **A. Before Works**

A Pre-commencement Inspection/meeting is to be convened by the Applicant on-site a minimum 5 days prior to any demolition and/or construction activity and between the hours of 8.00 am and 4.30 pm Monday to Friday. The meeting must be attended by a representative of Council's Civil Assets Branch, the Principal Certifying Authority, the builder/site manager of the building/civil construction company and where necessary the supervising engineer. The attendance of the owner is required when it is intended to use more than one builder/principal contractor throughout the course of construction.

The purpose of the meeting is to:

- i) Ensure safe passage for pedestrians, Work and Hoarded Zones are maintained in accordance with Council requirements;
- ii) Check the installation and adequacy of all traffic management devices;
- iii) Confirm that the supervising engineer has a copy of Council's Specification for Civil Works Associated with Subdivisions and Developments.

**Note:** An inspection fee must be paid to Council prior to the lodgement of the Notice of Commencement. Please refer to Sutherland Shire Council's Adopted Schedule of Fees and Charges.

## **9. Supervising Engineer (ENG4005)**

### **A. Before Construction**

The applicant must engage an appropriately qualified supervising engineer to supervise construction of any:

- i) road frontage works
- ii) construction / installation of stormwater drainage
- iii) rainwater harvesting
- iv) rainwater reuse facilities
- v) all other works that form part of a subdivision

### **B. During Construction**

The engineer must supervise the works as listed above to ensure compliance with:

- i) Council's current "Specification for Civil Works Associated with Subdivisions and Developments" for works in the public area
- ii) any frontage works design approved by Council
- iii) all relevant conditions of development consent
- iv) any Consent issued under the Roads Act for this development
- v) appropriate design parameters in applicable Australian Standards

### **C. Before Occupation**

The engineer must certify the Works-as-Executed drawings or provide a separate certification that the requirements of this condition have been met.

## **10. Parking Areas and Access (ENG4020)**

### **A. Design**

All vehicular accessways, car parking areas (including accessible car spaces) and service vehicle manoeuvring and loading areas for the proposed development must be designed and constructed to comply with all relevant requirements of AS/NZS2890.1 - 2004, AS2890.2:2002 and AS/NZS2890.6:2009.

The following specific requirements must be incorporated into the design:

- i) Any "one way" traffic aisles in the car parking area must be clearly identified by signposting and pavement marking.
- ii) The site ingress and egress crossing must be clearly identified by signage.
- iii) The proposed loading and delivery areas must be clearly defined with suitable signposting and pavement markings.
- iv) All proposed car park spaces must be appropriately line marked and signposted.

### **B. Before Construction**

Certification of compliance with the above stated requirements must accompany the application for a Construction Certificate.

## **11. Basement Car Park Design (ENG4025)**

### **A. Design**

The basement car park must be designed in accordance with AS/NZS2890.1:2004 and where relevant with AS/NZS2890.6:2009 and must incorporate the following:

- i) A minimum headroom of 2.2m measured from the parking floor to the underside of any beam, ventilation duct or service conduit, or to the underside of any door including a security door and fittings when those doors are in an open position.
- ii) Any proposed security door fitted to the undercroft car parking entry must be independently mounted on rubber pads to prevent vibration noise transmission through the concrete walls and / or columns.

### **B. Before Construction**

Certification of the above must accompany the application for a Construction Certificate.

## 12. Drainage Design - Requirements (ENG5005)

### A. Design

A detailed drainage design generally consistent with the requirements of the National Plumbing and Drainage Code AS3500 Series and the BASIX Certificate issued against this development.

The design must :

- i) Ensure the rate of stormwater discharged from the site does not exceed the pre-development rate of discharge. Specific certification from the designer to this effect must be incorporated in the submitted drainage plans / details.
- ii) The design drawings are to indicate details of proposed stormwater pipelines and associated structures,

### B. Before Construction

- i) Certification issued by an appropriately accredited person to the effect that these design requirements have been met must accompany the application for a Construction Certificate.

### C. Before Occupation

- i) Certification must be provided from a registered surveyor to the effect that:
  - a) All civil engineering works required by this development consent have been carried out in accordance with the terms of the development consent and the approved engineering drawings with regard to location and level.
- ii) Certification shall be provided from the supervising engineer acting as an Accredited Certifier, to the effect that:
  - a) All civil engineering and stormwater works associated with development have been carried out in accordance with the terms of the development consent, the approved engineering drawings and in the case of public works with a Council issued Roads Act Approval.
- iii) Works-as-Executed drawings certified in the above manner and containing all relevant information as required by Council's Roads Act Approval shall accompany the Occupation Certificate, must include all relevant levels to Australian Height Datum, including:
  - Pipe invert levels,
  - Surface and pavement levels,
  - Floor levels,

**Note:** Upon approval of the stormwater management designs a notation will be added to the s.149 certificate in relation to any required detention facility and/or stormwater treatment device.

### D. Ongoing

The stormwater detention facility shall be:

- i) Kept clean and free from silt, rubbish and debris.
- ii) Be maintained so that it functions in a safe and efficient manner.
- iii) Not be altered without prior consent in writing of the Council.



**Note:** Council has the ability to enforce conditions of consent and may inspect the facility, and issue fines or orders if these requirements are not being complied with.

**13. Noise Control During Construction and Demolition (ENG6010)**

To minimise the impact on the surrounding environment:

**A. During Works**

The LAeq sound pressure level measured over a period of 15 minutes when the construction or demolition site is in operation, must not exceed the ambient background level (LA90 15min) by more than 10dB(A) when measured at the nearest affected premises.

**14. Damage to Adjoining Properties (ENG6015)**

**A. Before Works**

To minimise vibration damage and loss of support to buildings / structures and properties in close proximity to the development site, a Geotechnical Engineers Report must be prepared detailing constraints to be placed on earth moving and building plant and equipment and the method of excavation, shoring, underpinning and support. This report must be provided to the person undertaking the excavation and the Principal Certifying Authority.

**B. During Works**

The constraints and recommendations of the Geotechnical Engineers Report must be implemented.

**15. Detailed Landscape Plan (ENV2005)**

**A. Design**

A Detailed Landscape Plan must be prepared by a qualified Landscape Designer or Landscape Architect.

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

The Detailed Landscape Plan must be based on the Concept Landscape Plan NosSS13-2601 002 to 020 inclusive prepared by Site Image (NSW) Pty Ltd dated 29.05.2013 and must also include the following:

- iii) A minimum number of 15 canopy trees that will attain a minimum mature height of six metres must be planted on the site. 80 % (percentage no.) of the canopy trees to be planted are to be local native species.
- ii) The communal open space areas must be provided with a water- efficient irrigation system, connected to a pump and the rainwater tank /OSD tank, to enable effective landscape maintenance.
- iii) The private open space of each dwelling must be provided with one tap with a removable water key, connected to a pump and the rainwater tank/OSD tank.
- iv) A 12 months maintenance programme.

## **B. Before Construction**

The Detailed Landscape Plan required to comply with 'A' above must accompany the documentation forming part of the Construction Certificate.

## **C. During Construction**

The applicant must engage a suitably qualified Landscape Designer or Landscape Architect to oversee the landscape works. This person must check the landscape construction works at regular intervals and oversee any design changes due to unforeseen circumstances.

## **D. Before Occupation**

Certification must be provided by a qualified Landscape Designer or Landscape Architect that all landscaping works have been carried out in accordance with "A" above.

## **E. Ongoing**

All landscaping works required by 'A' above must be maintained for 12 months or until the trees are covered by Council's Controls for Preservation of Trees and Bushland Vegetation (SSCDP Chapter 4).

**Note:** If difficulty is experienced sourcing suitable indigenous plants from other suppliers, seeds of locally provenance are available from:

Sutherland Shire Council Nursery  
345 The Boulevard, Gymea  
Ph: 02 9524 5672

## **16. Vegetation Management Plan (VMP) (ENV2020)**

In order to ensure the restoration and revegetation of the subject site and provide for the ongoing management of vegetation:

### **A. Design**

A Vegetation Management Plan (VMP) must be prepared by a suitably qualified and experienced Horticulturalist or Ecologist. The VMP must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate, and a copy supplied to Sutherland Shire Council.

### **B. During Construction**

The revegetation works detailed in the approved VMP must be implemented/commenced under the supervision of an appropriately qualified and experienced Horticulturalist or Ecologist during the construction phase of the development.

### **C. Before Occupation**

The VMP must contain a monitoring and reporting framework which operates until such a time that the objectives of the VMP have been complied with.

### **D. Ongoing**

Any ongoing monitoring and management required by the VMP must be undertaken under the supervision of an appropriately qualified Horticulturalist or Ecologist. Copies of all monitoring results are to be submitted to Council's Environmental Science unit.

**Note:** The VMP must include (but not necessarily be limited to) the following:

Establishment Phase:

- i) A plan showing the different management zones on the site;
- ii) The exact location of vegetation to be removed and retained on the site;
- iii) Details of any revegetation works, including a list of species to be utilised;
- iv) Planting densities and species mix for replanting;
- v) Specific fuel management, mulch, soil and stormwater management measures;
- vi) A plan showing clearly defined vegetation protection areas;
- vii) Vegetation and tree protection measures to be employed in vegetation protection areas;
- viii) A plan showing the location of all weeds onsite, and statement outlining the proposed management techniques to control them.

Maintenance Phase:

- i) Specific timeframes, performance monitoring and maintenance, performance measures, expected outcomes and responses;
- ii) Specific management responsibilities;
- iii) Other necessary habitat management or improvement measures.

**17. Removal of Trees (ENV2030)**

**A. Design**

The removal of the following is approved, unless otherwise specified

- i) Trees identified on the approved plans as “existing tree to be removed”
- ii) Trees growing within the 3 metres of the building footprint of the approved structures.
- iii) Any declared noxious plant. The applicant is to ensure that all noxious plants are properly identified and controlled/removed.
- iv) Any tree species exempted by the Sutherland Shire Local Environmental Plan 2006.

All other vegetation that would require approval to be removed must be protected.

**B. Before Works**

Sutherland Shire Council’s Development Control Plan (Amendment 11) requires replacement tree planting at a rate of 4 to 1 on private land. Replacement planting must be indigenous species throughout the Shire and must be selected from the tree selection table below.

Tree Species (botanical name)	Tree Species - common name
<i>Allocasuarina littoralis</i>	Black Sheoak
<i>Allocasuarina torulosa</i>	Forest Oak
<i>Angophora costata</i>	Smooth Barked Apple
<i>Banksia serrata</i>	Old Man Banksia
<i>Corymbia gummifera</i>	Bloodwood
<i>Elaeocarpus reticulatus</i>	Blueberry Ash
<i>Eucalyptus globoidea</i>	White Stringybark

Eucalyptus pilularis	Blackbutt
Eucalyptus resinifera	Red Mahogany
Glochidion ferdinandi	Cheese Tree
Syncarpia glomulifera	Turpentine

36 trees are approved for removal as part of this consent. **In determining this application, the extent of compensatory planting has been reduced as the development has been sensitively designed to maintain existing bushland or trees such that it makes a positive contribution to the local landscape character.** In order to satisfy the replanting requirement, 70 replacement trees are required to offset this loss.

The trees selected must be planted within the front or rear setback of the subject property and not within 3m of a building or proposed building. The location of the replacement trees must be shown on a tree location plan that forms part of the Construction Certificate application. In addition a further copy must be submitted to Council prior to the issue of a Construction Certificate.

### C. Ongoing

Replacement trees must have a minimum container size of 5L and must be maintained and protected until they are covered by Council's Controls for Preservation of Trees and Bushland Vegetation (SSCDCP Chapter 4). Any replacement trees found damaged, dying or dead must be replaced with the same species in the same container size within one month with all costs to be borne by the owner.

**Note:** If you have difficulty sourcing suitable indigenous plants from other suppliers, locally provenanced stock is available from:

Sutherland Shire Council Nursery  
345 The Boulevard, Gymea  
Ph: 02 9524 5672

Opening hours - Monday to Friday 7.00am-3.00pm (excluding public holidays).

## 18. Removal of Trees (Council Land) (ENV2035)

### A. Design

The following trees have been approved for removal within the road reserve;

Tree No.	Tree Species (botanical and common name)	Location
<b>### Subject to Council's satisfaction of compliance with Deferred Commencement Conditions ###</b>		

Council has preferred supplier agreements in place with a number of arborists who have approved work method statements and public liability insurance. Removal / Pruning of the tree/s may be undertaken using any of council's preferred suppliers at the applicant's expense. The applicant is responsible for contract management and payment of the arborist.

You can select from council's list of preferred suppliers by accessing council's website and searching for Tree Removal - Preferred Supplier.

## B. Before Construction

Prior to the issue of the Construction Certificate the applicant must pay Council the scheduled fee for the replacement of the tree/s within the road reserve in accordance with Council's adopted replacement policy (Sutherland Shire Council's Development Control Plan -Amendment 11) which is required at a rate of 5 to 1.

## 19. Tree Retention and Protection (ENV2040)

### A. Before Works

Before the commencement of any works on the site a supervising Arborist must be engaged to oversee the measures for the protection of existing trees as listed below.

**Note:** An Arborist is a person with current membership of the National Arborists Association of Australia at a grade of General Member, Affiliate Member or Life Member or alternatively a person who has obtained a TAFE Certificate in Horticulture (Arboriculture) Level 5.

Before the commencement of any works on the site the following tree/s as marked on the Plan No.### prepared by ### dated ### must be retained and protected:

Tree No.	Tree Species (botanical and common name)	Location on site
<b>### Subject to Council's satisfaction of compliance with Deferred Commencement Conditions ###</b>		

The trees identified for retention must be protected by the following measures:

- i) Protective fencing constructed of 1.8m high chain wire mesh supported by robust posts must be installed at a minimum radius of ###m from the trunk of each tree referenced above. Signage must be erected on the fence with the following words clearly displayed "TREE PROTECTION ZONE, DO NOT ENTER".
- ii) The tree protection zone within the protective fencing must be mulched with a maximum depth 75mm of suitable organic mulch (woodchips or composted leaf chip mulch) and kept regularly watered for the duration of the works subject to this consent.
- iii) No development or associated activity is permitted within the fenced tree protection zone for the duration of works subject to this consent. This includes vehicular or pedestrian access, sheds, washout areas, excavations, backfilling, installation of services (including stormwater), removal of top soil, stockpiling of soil or building materials.
- iv) Any approved works within this tree protection zone must be under the direction and to the satisfaction of an Arborist.
- v) Where site access/egress is required over the roots of trees identified for retention and protection, provide hardwood rumble boards over a 200mm thick layer of wood chip.

### B. During Construction

- i) The tree protection measures detailed in 'A' above must be maintained during

- construction.
- ii) If the tree/s identified for retention in 'A' above are damaged or destabilised during construction then works must cease and Council's Tree Assessment Officer (ph. 9710 0333) must be contacted to assess the tree/s and recommend action to be taken.

## **20. Disposal of Site Soils (ENV3015)**

### **A. During Works**

All soils excavated from the subject site are to be classified under the NSW Department of Environment and Climate Change Waste Classification Guidelines (2009). Testing is required prior to off site disposal.

In accordance with DECC Waste Classification Guidelines (2009) materials identified for off site disposal must be removed by a suitably qualified contractor to an appropriately licensed waste facility

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

### **B. Prior to Occupation or Commencement of Use**

Evidence that the requirements specified in 'A' above have been satisfied must be provided to the Principle Certifying Authority prior to the issue of an Occupation Certificate. Where an Occupation Certificate is not required this evidence must be provided to the satisfaction of Council's Manager Environmental Science.

## **21. General Odour Condition (ENV5015)**

### **A. Ongoing**

The use and operation of the premises must not cause the emission of any odours that, by reason of its level, nature, character or quality is likely to be harmful to or interfere unreasonably with the comfort or repose of person who is outside the premises.

## **22. Bushfire Design Attack Level (BAL) (FIRE1005)**

### **A. Design**

The building must be designed to Bushfire Attack Level (BAL 29) construction standards, as prescribed in Australian Standard 3959 (2009) - Building in Bushfire Prone Areas and in accordance with the recommendations in Section A3.7 of Addendum: Appendix 3 of Planning for Bushfire Protection (RFS).

Details of how it is proposed to comply with these requirements must form part of the application for a Construction Certificate.

A Vegetation Management Plan must be submitted with the Construction Certificate setting out how vegetation within the asset protection zone will be managed in accordance with the requirements of:

- i) Appendix 5 of Planning for Bush Fire Protection, published by the NSW Rural Fire Service; and
- ii) Standards for Asset Protection Zones, published by the NSW Rural Fire Service.

All trees must be retained in the asset protection zone, except those selected for

removal in consultation with suitably qualified and experienced Arborist or Horticulturalist and a Bushfire Consultant. The Asset Protection Zone must be maintained in accordance with the Vegetation Management Plan approved as part of the Construction Certificate.

### **B. Before Occupation**

A Certificate must accompany the application for a Occupation Certificate verifying that the development has been constructed in accordance with the requirements of Australian Standard 3959 - Building in Bushfire Prone Areas, for Bushfire construction works as nominated under the Development Consent and Construction Certificate.

### **C. Ongoing**

The building and associated asset protection area must be maintained to the designated Bushfire Construction Level in accordance with the design approved under the Construction Certificate and Australian Standard 3959 - Building in Bushfire Prone Areas.

## **23. Medical Treatment Rooms (HLT2015)**

### **A. Design**

Medical treatment rooms must include the following facilities:

- i) a hand basin located within each patient treatment room, fitted with an adequate supply of potable water from a hot and cold water supply. The taps must be capable of operation without hand contact.
- ii) a splashback above the hand basin not less than 450mm high and extending 150mm either side of the basin. The splashback must be constructed of a smooth impervious material.
- iii) a sink for the cleaning of equipment between procedures that has an adequate supply of potable water mixed from a hot and cold water supply.
- iv) floors and walls within the patient treatment rooms that are surfaced with smooth, impermeable seamless materials.
- v) non-porous, smooth and easily cleaned work surfaces to all equipment processing areas.

### **B. Before Construction**

Details of compliance with the above must form part of the application for a Construction Certificate.

### **C. Ongoing**

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

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

## **24. Cleanliness and Maintenance of Food Preparation and Storage Areas (HLT3005)**

To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation and storage areas:

### **A. Design**

The food preparation and storage area/s must be designed in accordance with;

- i) Food Act 2003.
- ii) Food Regulation 2010.
- iii) Food Safety Standards 3.1.1, 3.2.2 and 3.2.3.
- iv) AS 4674 - 2004 (Design, construction and fit-out of food premises).
- v) Sydney Water Corporation - Trade Waste Section.
- vi) Protection of the Environment Operations (Clean Air) Regulation, 2002.
- vii) AS 1668 Part 1- 1998.
- viii) AS 1668 Part 2 - 1991.

### **B. Before Construction**

Details of compliance with the above must form part of the documentation accompanying the application for a Construction Certificate.

### **C. Before Occupation**

- i) Prior to issue of an Occupation Certificate, certification must be provided from a suitably qualified person that all work in connection with the occupation or use of the premises for the preparation, display and storage of food has been carried out in accordance with the terms of the development consent.
- ii) Occupation of the premises must not occur until a registration application has been submitted to Council's Environment and Health Regulation Department for the food business.

## **25. Garbage, Recycling and Green-waste Storage Area (HLT3015)**

To ensure the proper storage of waste from the premises:

### **A. Design**

The garbage and recycling storage area must have a smooth impervious floor that is graded to a floor waste. A tap and hose must be provided to facilitate regular cleaning of the bins and all waste water must be discharged to the sewer in accordance with the requirements of Sydney Water. Garbage bins must be designed to prevent the escape of any liquid leachate and must be fitted with a lid to prevent the entry of vermin.

### **B. Before Construction**

Details of compliance with 'A' above must form part of the documentation accompanying the applications for a Construction Certificate.

### **C. Before Occupation**

The works must be completed prior to the issue of any Occupation Certificate.



#### **D. Ongoing**

All waste and recycling bins must be stored wholly within the approved waste storage area. The bins must only be put out for collection in the evening prior to pick-up and returned to the storage area as soon as possible after pick-up.

### **26. External Lighting - (Amenity) (HLT3025)**

To ensure that any lighting on the site does not cause a nuisance to neighbours or motorists on nearby roads:

#### **A. Design**

All lighting must be designed in accordance with Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting.

#### **B. Ongoing**

All lighting must be operated and maintained in accordance with the Standard above.

### **27. Noise Control - Design of Plant and Equipment (HLT4015)**

To minimise the impact on the surrounding residents, all sound producing plant, equipment, machinery, mechanical ventilation system or refrigeration systems:

#### **A. Design**

All plant and equipment must be acoustically attenuated so that the noise emitted:

- a) does not exceed an LAeq sound pressure level of 5dB above the ambient background noise level when measured at the most effected point on or within any other residential property boundary, and
- b) must not be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
  - before 8am or after 10pm on any weekend or public holiday, or
  - before 7am or after 10pm weekdays.

**Note:** Noise measurement must be carried out in accordance with Australian Standard 1055.1.

#### **B. Before Construction**

Acoustic attenuation required to comply with 'A' above, must be prepared by a qualified acoustic engineer. These details must accompany the application for a Construction Certificate.

#### **C. Before Occupation**

Certification must be provided by a qualified acoustic engineer that all work associated with the installation of the acoustic measures has been carried out in accordance with 'A' above.

#### **D. Ongoing**

All plant and equipment must be operated and maintained in accordance with 'A' above.

### **28. Building Ventilation (HLT5005)**

To ensure adequate ventilation for the building:

#### **A. Design**

The building mechanical and / or natural ventilation systems must be designed, in accordance with the provisions of:

- i) The Building Code of Australia;
- ii) AS 1668 Part 1 - 1998;
- iii) AS 1668 Part 2 - 1991;
- iv) The Public Health Act - 2010;
- v) The Public Health Regulation 2012;
- vi) AS 3666.1 - 2002;
- vii) AS 3666.2 - 2002; and
- viii) AS 3666.3 - 2000.

#### **B. Before Construction**

Details of compliance with the above must form part of the documentation accompanying the application for a Construction Certificate.

#### **C. Before Occupation**

- i) Certification must be provided by a qualified mechanical ventilation engineer that the installation of the ventilation system has been carried out in accordance with 'A' above.
- ii) Occupation of the premises must not occur until a registration application has been submitted to Council's Environment and Health Regulation Department for any warm water system.

#### **D. Ongoing**

The ventilation system must be operated and maintained in accordance with 'A' above.

### **29. Car-Park Ventilation(HLT5010)**

To ensure adequate ventilation for the car park:

#### **A. Design**

As the basement car-park does not appear to comply with the natural ventilation requirements of Section 4 of Australian Standards AS1668.2 -1991, the car-park must be either mechanically ventilated by a system complying with AS1668.2 -1991 or alternatively, the natural ventilation system must be certified by a qualified mechanical ventilation engineer to the effect that the system is adequate. The certification shall confirm that the system will protect the health of occupants of the car park at anytime it is used and satisfies the atmospheric contaminate exposure rates specified in the Worksafe Australia document: Workplace Exposure Standards for Airborne Contaminants.

## **B. Before Construction**

Details of compliance with 'A' above must form part of the application for a Construction Certificate.

## **C. Before Occupation**

Certification must be provided by a qualified mechanical ventilation engineer that the installation of the ventilation system has been carried out in accordance with 'A' above.

## **D. Ongoing**

The ventilation system must be operated and maintained in accordance with 'A' above.

## **30. Demolition Work (Asbestos) (HLT5015)**

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

### **A. Before Commencement**

If works involve the removal of more than 10 square metres of asbestos material, a bonded asbestos licence is required. A friable asbestos licence is required to remove, repair or disturb any amount of friable asbestos. For further information contact the NSW Workcover Authority.

### **B. During Works**

- i) The demolition of the existing building must be carried out strictly in accordance with Australian Standard 2601 - The Demolition of Structures.
- ii) The applicant must ensure that the demolition contractor has a current public risk insurance coverage for a minimum of \$5 million. A copy of the Policy must be submitted to the Council prior to demolition.

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

- a) Work Health and Safety Act 2011;
- b) Work Health and Safety Regulation 2011;
- c) Safe Work Australia Code of Practice - How to Manage and Control Asbestos in the Workplace;
- d) Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC:2002(2005)];
- e) Workcover NSW 'Working with Asbestos - Guide 2008';
- f) Protection of the Environment Operations Act 1997; and
- g) Protection of the Environment Operations (Waste) Regulation 2005.

Asbestos waste in any form must be disposed of at a waste facility licensed by the Department of Environment Climate Change & Water to accept asbestos waste.

## **31. Delivery & Collection Times**

### **A. Ongoing**

#### **i) Waste**

To minimise the noise impact of the development on the surrounding environment, the collection of goods including garbage and recycling waste from the premises

must not take place between the hours of 7pm and 8am Monday to Saturday or before 9am Sunday and Public Holidays.

ii) Delivery / Collection of Goods

To minimise the noise impact of the development on the surrounding environment, loading or unloading of goods and materials must not take place between the hours of 7pm and 8am Monday to Saturday or before 9am on Sunday and Public Holidays.

**32. Design Requirements for Disabled Access (ORD4005)**

**A. Design**

A report prepared by a suitably qualified Access Consultant must be submitted with the Construction Certificate, demonstrating that the development complies with the requirements of AS1428 - Design for Access and Mobility.

**33. Certification Requirement of Levels (ORD4035)**

**A. During Construction**

At the following stages of construction:

- i) Prior to the pouring of each floor or roof slab,
- ii) Upon completion of the roof frame.

A registered surveyor must provide the Principal Certifying Authority with Certification that the stage of structure complies with the development consent in respect of levels.

**B. Before Occupation**

The certification referred to above must form part of the application for an Occupation Certificate.

**34. Sydney Water - Notice of Requirements (ORD4040)**

**A. Before Occupation / Prior to issue of Subdivision Certificate**

- i) The applicant must obtain a Notice of Requirements under the Sydney Water Act 1994, and submit the Notice to the Council.
- ii) A Compliance Certificate under s73 of the Sydney Water Act, 1994, must be submitted to Council by the Principal Certifying Authority. Sydney Water may require the construction of works and/or the payment of developer charges.

**Advice from Sydney Water:**

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

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water / sewer extensions can be time consuming and may impact on other services as well as building, driveway or landscaping design.

**35. Dial Before You Dig (ORD4050)**

**A. Before Construction**

Underground assets may exist in the area that is subject to your application. In the

interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (this is the law in NSW).

It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

### **36. Permitted Hours for Building and Demolition Work (ORD5005)**

#### **A. During Works**

To minimise the noise impact on the surrounding environment all building and demolition work must be carried out only between the hours of 7.00am and 6.00pm Monday to Friday inclusive, 8.00am and 3.00pm Saturdays. No work must be carried out on Sundays and Public Holidays.

### **37. Toilet Facilities (ORD5010)**

#### **A. During Works**

Toilet facilities must be available or provided at the work site at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site before works begin and must be maintained until the works are completed.

Each toilet must:

- i) be a standard flushing toilet connected to a public sewer, or
- ii) have an on-site effluent disposal system approved under the Local Government Act 1993, or
- iii) be a temporary chemical closet approved under the Local Government Act 1993

### **38. Loading and Unloading (ORD7035)**

To preserve the amenity and ensure the safety of the public:

#### **A. Ongoing**

All loading and unloading of vehicles must be carried out within the site and not from the public roadway. All service/delivery vehicles must enter and leave the site in a forward direction.

## **END OF CONDITIONS**

Attached are the prescribed conditions that must be complied with under the Environmental Planning and Assessment Regulations 2000.

## PRESCRIBED CONDITIONS

Division 8A of the Environmental Planning and Assessment Regulation Prescribes the following conditions of development consent

### **S98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989**

(cf clauses 78 and 78A of EP&A Regulation 1994)

- (1) For the purposes of section 80A (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:
  - (a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
  - (b) 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 building work authorised to be carried out by the consent commences.
- (1A) For the purposes of section 80A (11) of the Act, it is prescribed as a condition of a development consent for a temporary structure that is used as an entertainment venue, that the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the Building Code of Australia.
- (2) This clause does not apply:
  - (a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
  - (b) to the erection of a temporary building, other than a temporary structure to which subclause (1A) applies.
- (3) In this clause, a reference to the Building Code of Australia is a reference to that Code as in force on the date the application is made for the relevant:
  - (a) development consent, in the case of a temporary structure that is an entertainment venue, or
  - (b) construction certificate, in every other case.

**Note.** There are no relevant provisions in the *Building Code of Australia* in respect of temporary structures that are not entertainment venues.

### **S98A Erection of signs**

- (1) For the purposes of section 80A (11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- (2) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

- (c) stating that unauthorised entry to the work site is prohibited.
- (3) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (4) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State's building laws.
- (6) This clause applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

**Note.** Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100).

### **S98B Notification of Home Building Act 1989 requirements**

- (1) For the purposes of section 80A (11) of the Act, the requirements of this clause are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989.
- (2) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
  - (a) the case of work for which a principal contractor is required to be appointed:
    - (i) the name and licence number of the principal contractor, and
    - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
  - (b) in the case of work to be done by an owner-builder:
    - (i) the name of the owner-builder, and
    - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- (3) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.
- (4) This clause does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State's building laws.

### **S98E Condition relating to shoring and adequacy of adjoining property**

- (1) For the purposes of section 80A (11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (a) protect and support the adjoining premises from possible damage from the excavation, and
  - (b) where necessary, underpin the adjoining premises to prevent any such damage.
  
- (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

**Please be advised if this consent is for an entertainment venue, then there are further prescribed conditions that apply under clauses 98C and 98D of the Environmental Planning and Assessment Regulation.**



Peter Brooker - 9710 0571  
File Ref: PAD13/0033

13 June 2013

Paynter Dixon Constructions  
**ATTN: Michael Saul**  
Level 2, 2 Richardson Place  
Riverside Corporate Park  
NORTH RYDE NSW 2113

Dear Mr Saul,

**Pre-Application Discussion No. PAD13/0033**

**Proposal: Demolition of existing Independent Living Units and construction of a 6-8 level Residential Aged Care Facility**

**Property: 1-25 Acacia Road, Kirrawee**

I refer to the pre-application discussion held on 23 May 2013 about your proposed development on the above property.

The following is a summary of the matters addressed at the meeting. This letter is not a complete assessment of the application but is intended to address the major issues likely to arise if an application is submitted. All development applications are required to be accompanied by a Statement of Environmental Effects that must address all relevant Environmental Planning Instruments, Development Control Plans and policies. The contents of this letter do not bind Council to granting consent for the proposed development if an application is made for such a proposal.

Description of Site and Proposal:

The site is currently zoned 12 – Special Use (Seniors Housing). The site is at the northern end of Acacia Road in Sutherland. The site comprises of a complex containing housing and facilities for older people and people with disabilities known as ‘Thomas Holt Memorial Village’. The remainder of the site is traversed by a natural creek known as ‘Oyster Creek’ and bushland to the north.

The land about where the proposed works are located falls steeply from the south to the north toward an existing natural watercourse. Low density housing predominates in the surrounding locality. The Sutherland Town Centre and railway station are located approximately 1km to the south of the site.

The works involved for this proposal consist of the construction of a new multi storey aged care building that will include residential accommodation, facilities for the residential community of the village and their visitors. These facilities include a ground level café, garden areas and upper level communal multi-purpose area.

There are existing easements across the site for electrical transmission lines, stormwater drainage as well as the previously mentioned existing natural watercourse that restrict the area for development over the site proper. To the north and west existing dense vegetation follows the watercourse which creates a bushfire hazard threat whilst the existing watercourse creates flooding issues. The proposed works will not be affected by flooding but will need to address the impact of bushfire threat.

The site is located within a noted bushfire prone area which will require this development to be referred to the Rural Fire Services (RFS) for their comment and provision of constructional and operational conditions, if any. Similarly, the works being with a riparian zone of the existing natural watercourse a referral to the NSW Office of Water will be required for their review and concurrence.

### Comments on the Proposal:

#### Design - Generally

The initial response to the design of the proposal is generally acceptable in respect to the configuration of room spaces and the floor plan layout of the different levels of the building. Whilst the overall height of the proposed building is taller than what would usually be expected in the area, it is similar to existing development on the site as a consequence of the topography and the building is well designed to orient away from the low-density neighbourhood to the south, and capture the northern aspect and views to the bushland.

However, it will need to be demonstrated that the design achieves solar access to all the future resident's rooms without a loss of privacy for both the residents and the nearby residential properties. It would also need to be well demonstrated that the building is not overly visually dominant to any neighbouring properties, including those across the valley to the north. Materials selection will be an important aspect of the design in this regard. The impacts of visual and acoustic privacy and lightspill should also be addressed in the DA submission.

There is a need for the development and the existing facilities to connect with the external open spaces that adjoin the facility for the amenity of the residents and to compliment the setting of the building. A well considered landscaped design that compliments the design and 'softens' the building impacts will be required to be submitted with the development application. Council encourages that the scheme for landscaping should also incorporate water sensitive urban design and green energy measures in order to achieve long term environmental benefits.

For this type of development the incorporation of "Safer by Design" principles is essential for the security and well being of the residents and staff on the site. As mentioned during the meeting the area is a 'hot spot' for graffiti attack due to its isolated location thereby requiring attention to the types of materials and finishes that will be proposed. Casual surveillance and reduced capacity for hiding places should be incorporated into the design. The requirements of equitable accessibility throughout the site must be ensured within the overall design.

The proposal will be subject to review by Council's Architectural Design Advisory Panel (ARAP). It is understood that a pre-lodgement review by ARAP has been

requested already by the applicant. The comments and suggestions of the panel from this meeting should be incorporated into the final DA submission.

The proposal will be required to appropriately address any impacts upon the development and the existing natural environment in regard to electromagnetic radiation, Council's Greenweb objectives and stormwater disposal due to the close proximity of the works to these existing features. The impacts of construction upon the existing site facilities, residents, surrounding properties and waterways/ bushland will need to be adequately addressed with submitted DA documents.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 – (SEPP Seniors 2004):

The proposed works will be considered under the provisions of SEPP Seniors 2004 and in this regard the relevant Design Requirements and Design Principles of the SEPP must be adequately addressed with any development application. The SEPP provides that a consent authority cannot refuse a development proposal on the grounds of building height if it is no more than 8 metres above ground level to any point on the uppermost ceiling level. There are no current statutory limitations on the height at which the building may be approved, given the zoning of the site under Council's 2006 LEP. However, under Council's draft 2013 LEP, a height limit of 9m is proposed for the site.

Therefore the scale of the proposal will need to be assessed on merit in terms of the design principles in the SEPP. The height and massing of the building must also take into account the surrounding built and natural environment, including the local topography. The massing of the building should also provide for adequate solar access and landscaping opportunities within the site, and allow for uncomplicated accessibility and way finding for residents. A thorough analysis of the impacts of any variation sought will be required to be provided with a development application.

Public Domain and Bushfire Interface

North from the intersection of Acacia Road with Magnolia Street, Acacia Road is essentially unmade with only a short, but steep portion of narrow width road surface serving the existing northern carpark area for the site. The proposed design seeks to utilise a portion of this area for the purpose of providing some external café terrace seating area and approximately half a dozen lower level external courtyard areas for resident's rooms that face in that direction. These works would necessitate the provision of some retaining wall structures.

Additionally, it was stated that the management of an Asset Protection Zone for bushfire attack prevention extending through the northern (unmade) vegetated area of Acacia Road would assist in providing a safer environment for residents and users of the proposed works as well as the existing development on the site. Initially, this would require some "thinning out" of the existing vegetation and an ongoing maintenance programme.

As the affected area is under the care and control of Council both of these matters require formal and binding agreement(s) with Council. Generally these types of agreements are not authorised due to the long term responsibilities of ensuring maintenance, liability, safety and costs for works upon public land. However, should

further enquires in respect to this be desired, they should be directed to Mr Mario Sherrie, Manager Infrastructure Planning & Services. If these circumstances are considered appropriate and authorised with the Infrastructure Manager, further discussions should be undertaken with Mr Phillip Mansfield, Manager Property & Building Assets.

Setback Variation:

The proposed works seek to have a nil street setback to the semi private portion of Acacia Road boundary. In consideration of the existing site conditions and relationships to the surrounding locality a variation to this extent in this location may be appropriate but it will need to substantially address the objectives of the development control. The justification will need to have regard to the surrounding development and site landscaping which goes to the appearance of the street setback as it is perceived from the public domain.

Parking and Loading Facilities:

As the proposed works would increase the accommodation capacity of the site and affects the existing carpark area there will be a need to ensure that there will be sufficient car parking capacity for the whole site available. If the resultant capacity of car parking areas is deficient under Council's requirements, a thorough and up to date analysis of the traffic and parking needs of the whole site undertaken by a recognised and qualified traffic consultant will be required to be submitted with the development application. The assessment will need to take into account the different modes of travel to and from the site by different users of the site including visitors and staff.

Similarly, the provision of an adequately sized loading bay/ service area will be required, in addition to other purpose provided spaces for ambulances, staff, postal deliveries, taxis, mini buses and the like, having regard to the relatively steepness of Acacia Road that addresses the subject site area. Adequate manoeuvrability for vehicles in these areas including passing space along the narrow width portion of Acacia Road will be required to be also demonstrated. Emergency vehicle access will also need to be provided in accordance with relevant Australian standards.

Conclusion:

The above information is based on a meeting with Luke Murtas (*Team Leader*); Peter Brooker (*Environmental Assessment Officer*); Guy Amos (*Stormwater Manager*); Warwick Mertell (*Traffic Engineer*); James Gogoll (*ESD Engineer*); Marissa Racomelara (*Community Services*); Ingo Koernicke (*Environmental Scientist*) and David Jarvis (*Architectural Assessment Officer*) on 23 May 2013 and the details presented in that discussion.

Council is generally supportive of high quality design for residential aged care facilities within the Sutherland Shire. The proposed building is larger in terms of its 'raw' scale than a building which might normally be expected in the locality, but has been sensitively located and designed so as to minimise the impact of that scale. The site is located at a sensitive interface between suburban development and a more natural setting characterised by bushland and a waterway.

The proposal is considered to have merit if matters of building massing and scale, accessibility, and the treatment of the bushfire/ environmental interface are

appropriately resolved. Some further refinement of the design is suggested to ensure the facility obtains a high level of amenity for future residents in respect to access to the available natural environmental qualities of this site. The new non-residential facilities included in the proposal are considered to be positive contributions to the amenity of the village as a whole.

The cost of proposal was stated to exceed \$20M which will subject the final determination of the proposal as a matter for consideration by the Joint Regional Planning Panel (JRPP). The procedures for this are slightly different to a normal development application and Council staff can provide further advice as the application progresses.

The information provided is in accordance with the environmental planning instruments, development control plans and codes that were current at the time of the meeting. It is your responsibility to check whether there have been any amendments or repeals, or if any new instruments or policies have been adopted before you lodge the development application.

If you consider the information to be inaccurate, it is your responsibility to contact Council for clarification. Council reserves the right to ask for more information during the assessment of the proposal, if such information is necessary for the assessment.

Before preparing a development application please refer to Council's "DA Guide" and other information provided about lodgement requirements. Council's Development Enquiry Officers are also available to help. Incomplete applications will not be accepted and will result in delays.

I trust that this information helps you. If you need more information please do not hesitate to contact Peter Brooker via email on [pbrooker@ssc.nsw.gov.au](mailto:pbrooker@ssc.nsw.gov.au) or by phone (direct) on 02 9710 0571 during normal business hours.

Yours faithfully

Mark Adamson  
Manager – West Environmental Assessment Team  
for J W Rayner  
General Manager

## Architectural Review Advisory Panel

Proposal:

**Demolish Existing 4 Level Independent Living Units and Construction of a 6-8 Level Residential Aged Care Facility including Kitchen, Laundry & Car Parking**

Property:

**1-25 Acacia Road KIRRAWEE NSW 2232**

Applicant:

**Paynter Dixon Constructions**

File Number:

**ARAP13/0006**

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The following is the report of the Architectural Review Advisory Panel Meeting held on 27 June 2013 at the Administration Centre, Sutherland Shire Council, Eton Street, Sutherland. The report documents the Panel's consideration of the proposed development described above.

**1. "Consideration of ARAP13/006– Pre-DA Proposal for Demolition of the Existing 4 Level Independent Living Units and Construction of a 6-8 Level Residential Aged Care Facility at Thomas Holt Village, 1-25 Acacia Road North, Sutherland"**

Council's David Jarvis, Peter Brooker and Luke Murtas outlined the proposal for the Panel, including providing details of Council's relevant codes and policies.

Connie Argyrou, Carla Dal Santo, Damian Barker, Ross Shepherd, Michael Saul, Alexandra Davis, Jacqui Parker and Alexandra Zammit addressed the Panel regarding the aims of the proposal and the constraints of the site.

### Description of the Site and Proposal

The site is situated at the northern end of Acacia Road in Sutherland. It is located within the Thomas Holt Village, which is a complex containing housing and facilities for older people and people with disabilities. The remainder of the site is traversed by a natural creek, known as Oyster Creek, and bushland to the south. The site is within Zone 12 – Special Use (Seniors Housing), under the Sutherland Shire Local Environmental Plan 2006 (SSLEP 2006).

The development proposal is for the demolition of an existing 1 to 4 storey aged care building and the construction of a new 3 to 7 storey building that will include accommodation and facilities for the aged care community of the village and their visitors. Facilities will include a ground level café, garden areas, upper level communal multi-purpose area and centralised services.

During the site inspection it was observed that the land falls steeply from south to north towards an existing watercourse. Low density housing predominates in the surrounding locality. The Sutherland Town Centre and railway station are located approximately 1 km to the south of the site.

### Context

The immediate context consists of the main administration building to the south, a residential aged care building (Roden Cutler House) to the west, the main car park to the north, with Oyster Creek and bushland beyond. The existing context, while not homogenous, is characterised by buildings with pitched roofs, terraces and balconies, all of which contribute to the character of a residential and non-institutional/commercial character.

The site is located off Acacia Road North at the entry to the Thomas Holt Village. Key constraints are the 15 metres wide electrical easement to the north; the 2 to 3 storey Roden Cutler House and courtyard to the west; and the 9 metre fall across the site to the north.

The site sits within a continuous and significant part of Sutherland's Shire's Greenweb, which will influence the selection of plant species in any proposed planting areas (refer to Landscape below). The bushland setting will provide significant amenity for the residents of the complex as well as the surrounding community. To this end it is important to re-establish access to Oyster Creek along Acacia Road North, including designs to accommodate the steep level changes.

### Scale

The three storey scale of the southern wing at Acacia Road North and along the access road to the south is acceptable. With a recessed ground floor and partly set back fourth level the building reflects the scale of the three storey main administration building opposite, and emphasizes the gateway role of the building.

However, the 6 to 7 storey northern wing to the gully is much larger in scale than the adjacent 3 storey element or the cottages across the gully. The proposed faceting and articulation of the large building mass is not successful in relieving the visual mass and bulk of the building. The northern elevation is adjacent to the main car park and will be the first impression on arrival for visitors and needs to be mitigated.

The Panel notes that the draft SSLEP 2013 has a height limit of 9 metres for this site and that the SEPP (Housing for Seniors or People with a Disability) 2004 requires a merit assessment to justify building form and height (Division 2 Design Principles).

### Built Form

The form of the building is diagrammatically well considered and well integrated into the site, except at the western end where its relationship with Roden Cutler House is cramped and uneasy. It is not reasonable to assume, or hope, that the eastern end of Roden Cutler House will be demolished at some time in the future – as stated by the architect - allowing the western end of the courtyard to breathe properly.

The way that the diagram has been realised in built form needs further consideration. The building has a commercial or institutional character that is different to the character of the existing buildings - which is not to say that it should copy existing buildings. The stated aim of breaking the building up has only produced a building that is broken up (and then only in some areas), but not its supposedly intended outcome of a building with

a warm, welcoming, residential character. Where this breaking up is very apparent, at the main entry, it has resulted in a dislocated composition of elements and materials.

The built form has generally been well handled around in the V-shaped, internal courtyard. The sun shading rationale of the faceted façades needs more consideration. The zero setback to the eastern boundary is supported as the verge is generous. The yard of the house to the east needs to be checked for any negative impact due to overshadowing.

The interface of the proposed building with Roden Cutler House is awkward and needs to be resolved. There is a narrow separation between the new and existing buildings. Although this has been mitigated by stepping back the southern wing so that the interface is reduced to 3 storeys, the 6 storey façade adjacent to Roden Cutler House court appears aggressive, especially at the pinch point with the existing building. While the slope of the site enables the bulk of the building to be less intrusive, it nevertheless results in the lower level courtyard (level two) being shaded.

### Density

The proposal represents an increase in density from 40 independent living units in 1 to 4 storey buildings to 120 aged care units in a 3 to 7 storey building. There is a major increase in density so that scale and solar access need to be carefully considered.

### Resource, Energy and Water Efficiency

There is not much information at this early stage but resources, energy and water efficiency need to be integrated effectively at this early stage in the design process.

Most resident rooms have good solar access. Consideration should be given to PVs on the extensive north-facing roofs, opening windows for mixed mode cooling and solar hot water. A plan showing how stormwater is captured and managed including water sensitive urban design (WSUD) interventions wherever possible would be useful.

### Landscape

There are a number of constraints associated with designing the open space on the site, including an overhead electricity easement and the steep slope that inhibits the use of the open space to the east. The proposed location of the new building will result in the removal of a group of well-established eucalypts and angophoras at the western end. Because of the electricity easement, the location of compensatory planting is limited; such locations will need to be designated on or offsite. Because of Sutherland Shire's Greenweb, the species must be 100% indigenous. The applicant can contact Council's landscape architect to discuss the replacement planting and appropriate species selection.

Other specific comments related to landscape are:

Northern car park: it is not clear how the car parking will be resolved in terms of car parking spaces, turning circles, landscaped areas, entry to the existing western courtyard and the entry into the bushland. There is an opportunity to introduce landscape into the car park to the north of the building to improve the outlook and to provide a transition to the dense vegetation beyond.



Upper western landscape: there will be significant changes to this area as a result of the new building. It would be good to see how this will be resolved and details of the footpath connection through to the main entry.

Eastern courtyards: it is not clear how this area has been resolved, particularly the level changes, and whether there is access into the building.

Open space within the building: while the proposal is sensitive to the context of the site and the needs of the residents and their carers, solar access to the inner courtyard in winter is poor and could be improved by lowering the northern wing on the side adjacent to the Roden Cutler House.

Level two floor plan: the landscape design philosophy of the flowing forms representing the stream is an interesting idea. However the representation of rocks as angular benches may cause some hazards for people in wheelchairs. The mounded planting areas will be most attractive. While the species selection will need to conform to Sutherland Shire's Greenweb, the suggested occasional exotics will add to the amenity of the residents.

Level four floor plan: the enclosed planted areas on the rooftop garden will require access for maintenance and it would be good to indicate edges to the deck.

Levels five and six landscape plans: these plans do not match the architect's plans: the angular forms present a possible hazard and details of the cantilevered edge treatment are needed.

Landscape concepts that lose their basis in use and experience should be questioned. If the concept needs signage to explain it, it has perhaps strayed too far from its roots. It is worth looking at the work of Yoshisuke Miyake and the design of the Oizumi Ryokuchi Park, Osaka to see how universal design can be used to heighten sensory awareness for people with disabilities.

### Amenity

The plans are generally a well ordered and thoughtful response to the brief, with a good awareness of orientation and access throughout the building. Matters for consideration and improvement are:

- A simple bay window, as a subspace off the living room, is perhaps a more comfortable arrangement than a room with an angled end.
- Externally, the hoods over the angled windows do not make sense as shading elements, being unevenly distributed across the window.
- Some rooms seem problematic: levels 2 and 3 - room 6, house 2; level 4 - rooms 1, 2 and 3, house 2; on the footpath (and south facing); and the rooms close to Roden Cutler House.
- The number of car spaces provided seems inadequate to service the whole complex. Access from the car park to the building does not seem to be considered – do visitors have to walk up the steep street to the entry?
- It is not clear what is proposed for the common balconies, but if they cannot be open, consider large areas of clear glass for uninterrupted views rather than louvres with vertical mullions for the northern balconies. Perhaps the whole space could be

- thought of as a wintergarden with glazed doors onto the corridor, allowing a further setback from the façade which would articulate separation of form to the car park.
- Reducing the height of the northern wing will allow bush views to the top floor of the southern wing and will mean that the inner court feels less enclosed.
  - The attention to outdoor space and internal sitting areas is commendable, though the living room in the northern wing could have a bigger outdoor deck area considering it has great views and solar access.
  - Understanding that it is unsafe to have dementia residents independently accessing balconies, there is still an opportunity for residents in the southern wing of level 2 to have independent access to small, semi-private ground floor courtyards, giving them an alternative to the common open space.
  - Conflict between privacy of corner rooms and decks (levels 5 and 6) needs to be resolved.
  - Consider moving the lifts closer to the sitting room corner for more natural light at arrival and more privacy to eastern rooms, when extended.
  - There is potential amenity in the courtyards to the east but it is not clear how this area is resolved.

### Safety and Security

Safety and security are capable of being satisfied. Attention should be given to lighting in the car park. Will gates be required to the courtyard to stop wandering residents? This may require a specific evacuation management plan.

Bush fire hazard probably requires more than managing the bushland; particularly given the mobility restrictions of the residents.

### Social Dimensions

There is a commendable inclusion of social spaces in the development. Locating community uses at the main corner and along the internal road will assist in engaging the community. Family accommodation has been considered in the eastern wing. The smaller 'house' size is commendable.

The provision of access for the surrounding community to the development's facilities, such as the coffee shop, is an important urban design element. It is also important to integrate this with access to Oyster Creek and the bushland. It is noted that the applicant will work with Council to improve the road reserve and ensure appropriate bushland management, including bush fire hazard reduction.

### Aesthetics

Other strategies could be looked at, to more successfully articulate the facades - particularly the northern façade. Possibilities include: base and top horizontal articulation; vertical division into apparently discrete buildings; and re-thinking shading elements as an overall system, eg brise-soleil.

Consideration should be given to material selection that contributes to the desired character of the building, both externally and internally - a palette of materials that would convey a sense of 'home'. Bushfire control permitting, materials could be selected to reflect the interface with the bushland, eg timber battens to avoid an institutional/commercial appearance. The selection of polished block for the facades is questionable.

The top floor in the section sketch, which looks playful and inviting, needs to be reflected in the 3D images and the final application. The corner entry treatment could be simpler and stronger (refer also to 'Scale' and 'Built Form').

### **Recommendations and Conclusions:**

A masterplan for the whole complex, which is referred to in the Design Statement, should be submitted with the development application, showing the whole site: distribution of beds; circulation and delivery; car parking; areas for re-development and especially the future plans for Roden Cutler House. Sun shading diagrams need to be submitted and should include the impact on the house site to the east. The northern elevation should include Roden Cutler House, adjacent to the proposed development.

In the view of the Panel there is too much accommodation to achieve a comfortable fit on the available site. The Panel recommends that level 6 is reduced by five rooms in the western part of the northern wing, and that the design is tightened up by 2 to 3 metres (look at back-of-house and other areas) to move the building further to the east away from Roden Cutler House.

This being a pre-DA, some of the above comments, particularly in relation to the character of the proposal, are intended to stimulate further thought about important issues in designing residential care facilities. The architects should approach and reflect on the design of the proposed building from an experiential point of view. This is a submission prepared by capable and skilled architects, who could achieve more than is currently presented. “

Frank Stanistic  
ARAP Chairman

11 July 2013

## Architectural Review Advisory Panel

Proposal:

**Demolition of Existing Independent Living Units and Construction of a 120 Bed Residential Aged Care Facility within "Thomas Holt Village"**

Property:

**1-25 Acacia Road KIRRAWEE NSW 2232**

Applicant:

**Paynter Dixon Constructions**

File Number:

**DA13/0898**

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The following is the report of the Architectural Review Advisory Panel Meeting held on 7 November 2013 at the Administration Centre, Sutherland Shire Council, Eton Street, Sutherland. The report documents the Panel's consideration of the proposed development described above.

**"2. Consideration of Development Application No. 13/0898 – Demolition of Existing Independent Living Units and Construction of a Residential Aged Care Facility (120 Beds) Within "Thomas Holt Village" at 1-25 Acacia Road, Kirrawee**

Council's David Jarvis, Peter Brooker and Luke Murtas outlined the proposal for the Panel, including providing details of Council's relevant codes and policies.

Michael Saul, Sadie Burling, Damian Barker, Connie Argrou, Carla Del Santo, Alexandra Zammit and Amanda Protherde addressed the Panel regarding further development of the proposal and how they have addressed the issues raised by the Panel at the previous meeting.

### Description of the Site and Proposal

The site is situated at the northern end of Acacia Road in Kirrawee. It is located within the Thomas Holt Village, which is a complex containing housing and facilities for older people and people with disabilities. The remainder of the site is traversed by a natural creek, known as Oyster Creek, and bushland to the south. The site is within Zone 12 – Special Use (Seniors Housing), under the Sutherland Shire Local Environmental Plan 2006 (SSLEP 2006).

The development proposal is for the demolition of an existing 1 to 4 storey aged care building and the construction of a new 3 to 7 storey building that will include accommodation and facilities for the aged care community of the village and their visitors. Facilities will include a ground level café, garden areas, upper level communal multi-purpose area and centralised services.

During the site inspection it was observed that the land falls steeply from south to north towards an existing watercourse. Low density housing predominates in the surrounding locality.

### Context

The immediate context consists of the main administration building to the south, a residential aged care building (Roden Cutler House) to the west, the main car park to the north, with Oyster Creek and bushland beyond. The existing context, while not homogenous, is characterised by buildings with pitched roofs, terraces and balconies, all of which contribute to a residential and non-institutional/commercial character. The site sits within the Sutherland Shire Green Web. The revised car park has extended a bus turning circle over two new constructed water tanks into the bushland area north of the site.

The revised proposal has responded positively to the Panel's previous comments and is generally well integrated into its context. In particular it has successfully addressed the adjacency issue of the new building with Roden Cutler House by the demolition of a section of the existing building to establish a 12-13m building separation and open up the central courtyard to solar access.

A master plan for the entire site would be of ongoing benefit to this facility so that future improvements are understood in a longer term context.

### Scale

While the proposal substantially exceeds both existing and future height controls, the building has been well integrated into its context through skilful design that responds to the site and topography. The scale is greater than that of the existing buildings but is relatively well modulated and forms a strong edge to the reserve.

The central courtyard would benefit from an increase in width by moving back its southern side at Levels 2 and 3 to align with Level 1. Level 4 could be amended to do the same, wholly or partially, with only a small loss of floor area.

### Built Form

The built form is generally well handled. The horizontals of the slab edges modulate the height; the chevron plan creates a shifting shadow. The regular chevron module of the typical rooms is well punctuated by the larger openings of the common living rooms and terraces.

The southern brise-soleil appears out of place notwithstanding that it is addressing privacy issues. A little more consideration may be of benefit.

### Density

The proposed density is appropriate to the building use. The floor plan works very well. The only rooms that are impacted by increased density are those on Levels 2 and 3 on the southern side of the central courtyard. These rooms would benefit from the widening of the central courtyard as suggested in 'Scale'.

### Resource, Energy and Water Efficiency

This was not discussed but the northern aspect is well utilised throughout. There are obvious opportunities to integrate rainwater harvesting solar heating and PV cell technology on the large roof areas.

## Landscape

Given the extent of the total Thomas Holt Village, a landscape master plan would enable more integration with the existing site design and the suggested upgrade of Acacia Road North and some remediation due to the impact of tree removal. Specific comments on the revised landscape plan follow.

- Northern car park – although the Bushland Management Report indicates the outline of the earlier proposed car park, it would appear from the Architect's revised documentation that a bus-turning area has been added which intrudes into the bushland (refer to "Amenity" below). A detailed landscape plan is needed for this area.
- Eastern courtyard – is this intended as a secure garden dementia courtyard? Is there seating in this courtyard? Although the shape of this courtyard and some indication of the planting are included on drawing, *Landscape Plan – Level 2*, it is not clear what the levels are or the heights of the walls. The southern wall is possibly 6 to 7 metres high. It would be good to see what is intended for this wall. Also, it would be good to see the details of these walls.
- Central courtyard – the opening-out of this courtyard on the north-western corner has created a much more pleasant space, with more manoeuvrable areas for wheelchairs and airbeds. The revised design has still maintained the design philosophy. It is not quite clear whether the seating bench edges have been maintained or whether this is now an on-grade kerb. The seating bench edge will allow for deeper soil; it is not clear what happens at the south-west exit.
- Level four deck – while the planting at the edge has been removed, it is still not clear how the deck is edged. The Architect's elevations indicate some kind of balustrade. This will be a shaded area that will be comfortable in summer; perhaps some of the original planting could be re-instated.
- Level five terrace - the revised plan with its openness and more simplified shapes and planting will provide significant amenity.
- The Arboricultural Impact Assessment indicates which trees are to be removed. It is recommended that tree (5) *Magnolia x soulangiana* and tree (6) *Sapium sebiferum* be transplanted, possibly to the eastern courtyard.

## Amenity

The amenity is generally very good except for the lower rooms on the southern side of the central courtyard. Solar access to the central courtyard and lower surrounding levels could be improved. The removal of the top floor units on the northern wing or the shifting of the southern edge should be explored to further improve solar access.

There are a number of instances around the central courtyard where cross-privacy should be improved, particularly from balcony areas. On levels 2 and 3, the units located on the sunken eastern courtyard should have their façade alignment adjusted to avoid looking into the rear wall of the courtyard.

The proximity of upper levels to the overhead transmission cables must be thoroughly understood and shown on the drawings. Do the upper levels look directly at them and how far are the cables from the façade?

The revised car park has extended a bus turning circle over two constructed water tanks into the bushland area north of the site. It would be preferable to move the rainwater

tanks further east under the grass area and reconfigure the car parking to accommodate bus turning by relocating the three eastern parking bays to create 15 bays along the northern edge. This would release a space to the east that could be extended to the boundary in the form of a deck to allow bus-turning.

#### Safety and Security

This is clearly well considered and supported by the 'house' concept. The central courtyard also provides a good space that is well overlooked.

#### Social Dimensions

This is well thought out with dual passages, centrally located common rooms opening to terraces, good natural light in rooms and circulation spaces. There is a good sense of entry with the café and common 'winter garden' rooms above overlooking the approach from the street. Bushland maintenance will also heighten the social aspects of the development

Legibility of address and access for visitors and staff from the car park should be improved.

#### Aesthetics

The aesthetic is effective. The facade materiality, with its hierarchy of concrete structural framing elements and lighter brick infill, is complemented by the darker generic face brickwork. The slab overhangs with the chevron plan modulates light and shade and provides a human scale to the building.

#### **Recommendations and Conclusions:**

The applicant has satisfactorily addressed many of the building and site design issues identified by the Panel in previous submissions to create a humane environment for both aging occupants and staff.

The proposal is of a high architectural design standard and it is hoped that the current commitment to a range of quality exterior materials is manifested in the built project.

There is much thoughtful architectural thinking within the project. The scale of the courtyard, subtly increased, would further improve the external environment.”

Frank Stanisic  
ARAP Chairman

19 November 2013

All communications to be addressed to:

Headquarters  
15 Carter Street  
Lidcombe NSW 2141

Headquarters  
Locked Bag 17  
Granville NSW 2142

Telephone: 1300 NSW RFS  
e-mail: [csc@rfs.nsw.gov.au](mailto:csc@rfs.nsw.gov.au)

Facsimile: 8741 5433



The General Manager  
Sutherland Shire Council  
Locked Bag 17  
SUTHERLAND NSW 1499

Your Ref: DA13/0898  
Our Ref: D13/2341  
DA13100989298 WS

**ATTENTION:** Peter Brooker

31 October 2013

Dear Sir/Madam

**Integrated Development for 100//1083371 1-25 Acacia Road Kirrawee 2232**

I refer to your letter dated 3 October 2013 seeking general terms of approval for the above Integrated Development in accordance with Section 91 of the 'Environmental Planning and Assessment Act 1979'.

This response is to be deemed a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' and is issued subject to the following numbered conditions:

**Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. The existing buildings on the site shall be provided with a 20m Inner Protection Area (IPA) to the west and northwest. The proposed building shall be provided with asset protection zones of 30m to the northwest, 45m to the north and 32m to the northeast and shall be maintained as an Inner Protection Area (IPA) as outlined within Section 4.1.3 and Appendix 5 of Planning for Bush Fire Protection 2006 and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones'.
2. A Plan of Management document covering the asset protection zones shall be created and shall be known as the Vegetation Management Plan this shall include landscaping and management of any vegetation on the site. The Vegetation Management Plan shall stipulate the requirements of the asset protection zones and the frequency of inspection and maintenance.



3. The northeastern asset protection zone is on neighbouring land and shall be covered by an easement in accordance with section 88 of the "Conveyancing Act 1919" and must be entered into before any construction certificate is issued.

### **Evacuation and Emergency Management**

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

4. A Bush Fire Emergency Management Plan is to be prepared in accordance with the NSW Rural Fire Service document 'Guidelines for the Preparation of Emergency/Evacuation plan' and comply with Australian Standard AS 4083 -1997 'Planning for Emergencies- for Health Care Facilities'.

### **Design and Construction**

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

5. New construction shall comply with Sections 3 and 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

For any queries regarding this correspondence please contact Wayne Sketchley on 1300 NSW RFS.

Yours sincerely



Michelle Streater

**A/ Team Leader, Development Assessment & Planning**

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006', visit the RFS web page at [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au) and search under 'Planning for Bush Fire Protection, 2006'.

Sent: 23/12/2013 12:04:07 PM ZE10

From: Peter Brooker/SSC

To: sutherland@rfs.nsw.gov.au <sutherland@rfs.nsw.gov.au>

Cc:

Subject: Referral for Thomas Holt Village

Hello Scott,

Council has an application for a 4 - 7 storey aged care facility at the Thomas Holt Village 1-25 Acacia Road, Kirrawee.

The application is to be reviewed and determined by the Joint Regional Planning Panel.

A referral has been sent to RFS Headquarters and their comment given as attached.



- Kirrawee Acacia Rd.pdf

Council has made a resolution to also refer the application to the local RFS for evaluation given your local knowledge of fire behaviour and history of the site.

Please find also attached copies of the relevant application information for your consideration in regard to the Council resolution.



Bushfire Assessment Report.pdf



Architectural Plans.pdf

Your attention to this matter is appreciated.

Kind regards,

**Peter Brooker**

Environmental Assessment Officer - Architecture / Planning  
Planning and Environment Division

Sutherland Shire Council

T (02) 9710 0571 | F (02) 9710 0180

pbrooker@ssc.nsw.gov.au | [www.sutherlandshire.nsw.gov.au](http://www.sutherlandshire.nsw.gov.au)

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Sent: 02/01/2014 02:02:25 PM ZE10

From: Scott Deller <Scott.Deller@rfs.nsw.gov.au>

To: "pbrooker@ssc.nsw.gov.au" <pbrooker@ssc.nsw.gov.au>

Cc: Robert Taylor <Robert.Taylor@rfs.nsw.gov.au>

Subject: FW: Referral for Thomas Holt Village

Good afternoon Peter,

Thank you for forwarding the proposed development onto this office.

I have reviewed the subject plans and other documents and raise no objection to the conditions imposed by the NSW RFS.

I do note the following for Councils records.

- Historically, APZ conditions have been applied to previous developments on the site and should be checked for consistency (S88B's) against the current proposal and subsequent recommendations.
- A reduced APZ has been recommended with the radiant heat level increased on the subject development from the desired 10kw/m<sup>2</sup> to 29kw/m<sup>2</sup>.
- This reduction is considered appropriate given the reduced fire run available through adjoining bush land due to its smaller size and disconnection with other bush land areas. This would result in a reduction of radiant heat by approx 30% as identified in the NSW RFS document *Discussion Paper - Asset Protection Zones for Existing Development*
- The provision of a Vegetation Management Plan highlighting how they will implement and maintain the APZ's is considered important.
- Once the Vegetation Management Plan is received by Sutherland Shire Council it should be forwarded to this office (District Office) for review/comment.

Should you require any further information regarding this email please do not hesitate to contact me.

Regards,

cid:image005.jpg@01CC7C69.7DE658  
80

**Scott Deller**

**Inspector | Community Safety Coordinator**

cid:image006.jpg@01CC7C69.7DE658  
80

NSW Rural Fire Service

Sutherland Shire | 126 Wilson Parade | Heathcote  
NSW 2233

p 02 8508 4040 | f 02 9520 3936 | m 0400 416 182 |  
e [scott.deller@rfs.nsw.gov.au](mailto:scott.deller@rfs.nsw.gov.au)

19 November 2013

John Rayner  
General Manager  
Sutherland Shire Council  
Locked Bag 17  
SUTHERLAND NSW 1499

Attn: Peter Brooker

Dear Peter,

## State Environmental Planning Policy No.1 Objection – Residential Aged Care Facility, Thomas Holt

### 1 Overview

I write in relation to DA13/0898 lodged on behalf of Thomas Holt for a residential aged care facility at 1-25 Acacia Road North, Kirrawee. The DA was submitted for assessment under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP Seniors Housing).

This letter comprises a State Environmental Planning Policy No.1 (SEPP 1) Objection in relation to a proposed variation to the height development standard contained within clause 40 of SEPP Seniors Housing and is submitted for assessment as part of the DA.

It has been prepared in response to a request from Council, notwithstanding that the height development standard does not apply to the subject site.

### 2 Standard being objected to and Proposed Variation

Height is defined under SEPP Seniors Housing as follows:

**Height** in relation to a building means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point.

The maximum proposed building height of the residential aged care facility is 20.27m from ground level to the uppermost point of the topmost ceiling.

SEPP Seniors Housing provides the following development standard in relation to height:

#### **40 Development standards—minimum sizes and building height**

##### **(4) Height in zones where residential flat buildings are not permitted**

**If the development is proposed in a residential zone where residential flat buildings are not permitted:**

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

*Note. Development consent for development for the purposes of seniors housing cannot be refused on the ground of the height of the housing if all of the proposed buildings are 8 metres or less in height. See clauses 48 (a), 49 (a) and 50 (a).*

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

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

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

(Our emphasis added)

Accordingly, SEPP Seniors Housing establishes an 8m height limit for seniors housing in a **residential zone** where **residential flat buildings are not permitted**.

The site is not located within a residential zone under Sutherland LEP 2006 and therefore Clause 40(4) does not apply to the subject site. Accordingly, no height control applies to the site and a SEPP 1 objection is not necessary. Whilst the proposed development exceeds the '*standards that cannot be used to refuse development consent for residential care facilities*' provided in clause 48 of the SEPP in relation to height (being 8m), it is noted that these provisions do not prevent a consent authority from approving a DA which exceeds these standards, based on the merits of the proposal.

Nonetheless, this SEPP 1 objection has been prepared at the request of Council for abundant caution in relation to the proposed height of 20.27m in the instance that the determining authority is of the view that a formal variation is required to the 8m standard under clause 40 of SEPP Seniors Housing.

The proposed height is 12.27m above the development standard of 8m.

### 3 State Environmental Planning Policy No.1 Objection

This SEPP 1 objection has been prepared in accordance with the requirements of SEPP 1 which has the following aims and objectives:

#### **Clause 3 – Aims, objectives etc**

*This Policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the Act.*

Clause 6 provides the mechanism for making a SEPP 1 objection and states:

#### **Clause 6 – Making of applications**

*Where development could, but for any development standard, be carried out under the Act (either with or without the necessity for consent under the Act being obtained therefore) the person intending to carry out that development may make a development application in respect of that development, supported by a written objection that compliance with that development standard is unreasonable or unnecessary in the circumstances of the case, and specifying the grounds of that objection.*

This objection has been prepared in accordance with the aims and objectives contained within clause 3 and the provisions of clause 6 of SEPP 1 and demonstrates that the proposal satisfies these provisions and can be granted consent.

The following framework for this objection has been prepared in accordance with the five-part test for SEPP 1 objections established by Lloyd J in *Winten Property Group Limited v North Sydney Council* [2001] NSWLEC 46:

1. *Is the planning control in question a development standard?*
2. *If so, what is the underlying objective or purpose of the standard?*
3. *Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in s.5(a)(i) and (ii) of the EP&A Act?*
4. *Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case? This must look at whether a development which complies with the development standard is unreasonable and unnecessary.*
5. *Is the objection well founded?*

### 3.1 IS THE PLANNING CONTROL IN QUESTION A DEVELOPMENT STANDARD?

Clause 4(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) defines a 'development standard' to include the following:

*Development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:*

...

*(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work, (our emphasis added)*

...

The height standard contained within Clause 40 of SEPP Seniors Housing clearly falls within this definition, and is therefore a 'development standard', and subject to the provisions of SEPP 1.

### 3.2 IF SO, WHAT IS THE UNDERLYING OBJECTIVE OR PURPOSE OF THE STANDARD?

There are no objectives of the development standard for height stated in SEPP Seniors Housing. However, based on the overall aims and the design principles provided in SEPP Seniors Housing, key objectives of the height limit are assumed to relate to providing appropriate built form and maintaining neighbourhood amenity. An assessment against these principles is provided below.

#### **In relation to built form:**

- **Achieve built form that responds to the characteristics of its site and surrounding built form.**
- **Adopt building heights at the street frontage that are compatible in scale with adjacent development.**

The proposed built form is responsive to its immediate surroundings providing appropriate height, bulk and scale to integrate into the site's setting and the sites existing built form.

The site has steep topography which falls towards the creekline. These conditions lend themselves to a building which, with a responsive and considered design such as that proposed, can accommodate substantial scale and a building height above the nominal 8m contained within SEPP Seniors Housing.

The proposed design responds to the topography of the site by accommodating the highest part of the proposed building, being seven storeys, on the northern side of the building where the topography slopes down towards the creek and associated bushland. This part of the building does not therefore immediately adjoin any local residents and enables the built form to be read as three storeys from the entrance of the building to the south.

Further, the uppermost floor of the proposed RACF building (level 7) is set back from the street edge and will read as recessive form when viewed from the rear of the building.

The building height responds to surrounding development in the following ways:

- The uppermost ridge RL of the building at 64.35 is less than 1m higher than the existing Jacaranda building immediately to its south RL 63.63. The roof is undulating and lowers to the south east corner to RL63.05 as a gesture to the surrounding residential scale of Magnolia Street and Acacia Road North.
- The level of the parapet roof line at RL 60.40 is proximate to the maximum RL of the residential dwelling at 1 Magnolia Street (RL 59.85) and is therefore lower than the ridges of the other detached dwellings to the east which, by nature of topography, are higher than that of no. 1 Magnolia Street.
- The three storey scale at the main site entrance is similar to the eaves of the main administration building, whilst taller than that of nearby single detached dwellings, is not inconsistent with the scale of building elements within the current Thomas Holt complex. The proposed building height sits considerably below the existing Tondara building (with parapet level at RL 63.60) located to the south west.

The steep slopes significantly limit the presence of adjacent neighbours. Whilst the building will still be visible from the public domain, it has been designed to minimise the impact of height and built form on the street and surrounding residents. To reduce the visual impact of this building and break down building mass, techniques such as use of strong horizontal elements (slab overhangs and recessed window treatments) have also been implemented.

**Maintain reasonable neighbourhood amenity and appropriate residential character by:**

- **Minimising overshadowing and ensuring adequate daylight to the main living areas of neighbours in the vicinity.**
- **Maintaining privacy of local residents.**

Shadow diagrams have been prepared as part of the architectural package accompanying the DA. The shadow diagrams show that the shadow impact falls mostly within the subject site and within the Acacia Road North road reserve.

There is no overshadowing on neighbouring properties to the east between 9am and 3pm on 21 June (midwinter). Accordingly, the adjacent properties maintain their existing sunlight access between these hours. The building height will not cause any material overshadowing impacts onto neighbouring residential properties.

Privacy of local residents is maintained in the following ways:

- The rooms within the proposed building are arranged around a courtyard with opportunities for views to a central terrace and to the bushland to the north. Opportunities for overlooking to the adjoining residential dwellings to the east (fronting Magnolia Street) are limited to three rooms per



level. There are no balconies to these rooms and given the building separation it is not considered that any material privacy impacts will result to neighbouring properties.

- While there is a courtyard extending onto the Council reserve to the east on level 2 of the building, landscaping along the eastern boundary of the courtyard to Acacia Road will protect privacy and prevent overlooking to residents on Magnolia Street to the east.
- Further, the proposed building is separated from the nearest residential dwelling at 2 Magnolia Street by approximately 30m. The primary windows servicing those dwellings are oriented south where the main entry point is located and north towards the bushland. Those dwellings which do not have windows orientated towards the courtyards will look onto the area in front of 2 Magnolia Street and therefore limited overlooking will result to these windows from the new building.

Accordingly, the proposed built height meets the assumed objectives of the standard by responding to its immediate surroundings providing appropriate bulk and scale to integrate into the site's setting, surrounding context and the existing development on the site.

### 3.3 IS COMPLIANCE WITH THE DEVELOPMENT STANDARD CONSISTENT WITH THE AIMS OF THE POLICY, AND IN PARTICULAR DOES COMPLIANCE WITH THE DEVELOPMENT STANDARD TEND TO HINDER THE ATTAINMENT OF THE OBJECTS SPECIFIED IN S.5(A)(I) AND (II) OF THE EP&A ACT?

The objectives specified in s.5(a)(i) and (ii) of the EP&A Act are:

(a) *to encourage:*

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

Requiring compliance with the 8m height development standard would hinder the ability of the proposed development to meet the aims of the EP&A Act by:

- Considerably limiting the ability to provide a seniors housing development which achieves a well-designed built form that responds to the current scale and characteristics of the zone, the site and its location.
- Limiting the orderly development of the Thomas Holt complex to provide substantial positive social benefits in the locality.

### 3.4 IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE?

In *Wehbe v Pittwater Council* [2007] NSWLEC 827 Preston CJ set-out the five ways of establishing that compliance with a development standard is unreasonable or unnecessary in support of a successful SEPP 1 objection:

1. ***Establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.***

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

(Our emphasis)

Compliance with the development standard is unreasonable and unnecessary because the underlying purpose of the standard is achieved as discussed in Section 3.2.

### 3.5 IS THE OBJECTION WELL FOUNDED?

This objection is well founded because, notwithstanding that Clause 40(4) and the 8m height control does not apply to the site, the proposed height provides a site specific response to the development constraints of the site and maintains a high level of amenity for future residents and surrounding land uses.

## 4 Conclusion

This SEPP 1 objection supports a proposed variation to the height standard provided in Clause 40 of SEPP Seniors Housing. This objection has been prepared in accordance with the requirements of SEPP 1 including the objective listed in Clause 3 and the provisions of Clause 6.

The SEPP 1 objection demonstrates that the proposed variation to Clause 40 of SEPP Seniors Housing should be supported because:

- Strict compliance with the standard would hinder achievement of the objectives contained in Section 5(a)(i) and (ii) of the EPA Act.
- The proposed height provides a site specific response to the development constraints of the site maintaining amenity requirements of future residents and surrounding land uses.
- The proposed variation does not result in any environmental effects.
- The proposed variation to the standard does not raise any matter of significance for State or regional environmental planning and satisfies the relevant requirements of SEPP (Seniors Housing).
- There is no public benefit in maintaining strict compliance with the standard.

Strict application of the standard is therefore unreasonable and unnecessary in the circumstances of the case, and consent should be granted in accordance with the provisions of Clause 7 of SEPP 1.

Yours sincerely,

A handwritten signature in black ink that reads "S. Houston".

Sarah Houston  
Senior Consultant