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File Reference: DA/276/2013

25 February 2014

Draft Consent

Development Application No: 276/2013
Property: LOT: 1 DP: 86635, LOT: 1 DP: 86964, PT: A DP: 158788, LOT: 2 DP: 402831, LOT: 1 DP: 782399, LOT: 2 DP: 782399, LOT: 3 DP: 782399, LOT: 4 SEC: E DP: 976627, LOT: 1 DP: 256347
143-155 Princes Highway KOGARAH, 155 Princes Highway KOGARAH and 38-48 Chapel Street KOGARAH
Description of Development: Demolition of existing buildings, construction of a seniors living housing development consisting of three (3) buildings (6-12 storeys) containing 137 independent & assisted living units & a residential care facility with 80 beds, basement carpark & subdivision

Specific Development Conditions

SECTION A - General Conditions

The conditions that follow in this Section A of the Notice of Determination are general conditions which are imposed to ensure that the development is carried out in accordance with the development consent.

(1) Approved Plans of Consent

The development must be implemented in accordance with the approved plans, specifications and details listed below and any supporting information submitted with the Development Application except as amended by any conditions attached to the Development Consent:

- (i) Architectural plans – prepared by Grengate Design Pty Ltd, Project No.00-18, Drawing Nos. DA 11, issue 1 dated 28/11/2013; DA 101, DA 102, DA 103, DA 104, DA 105, DA 106, DA 107, DA 108, DA 109, DA 110, DA 111, DA 112, DA 201, DA 202, DA 203, DA 204, issue 2 dated 07/02/2014; DA 205, DA 206, DA 210, Issue 1 dated 28/11/2013.
- (ii) Landscape plans – prepared by Melissa Wilson Landscape Architects, Project No.1328, Sheets 1-5, issue B dated 25/11/2013

- (iii) Stormwater Strategy and Plans – prepared by Warren Smith & Partners Pty Ltd; Report Issue B, dated 5 November 2013, Plans – Job No.4588000, Drawing Nos.C-01 – C-09, Issue B, dated 05/11/2013.
- (iv) Subdivision plans - Prepared by Mark John Andrew, Ref. No. 131007, Issue 1 dated 18/11/2013

(2) SEPP Housing for Seniors & People with a Disability

The development approved under this consent constitutes “Housing for Seniors or People with a Disability” as defined under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. Accordingly only those people who meet the following criteria may occupy this accommodation:

- (a) seniors or people who have a disability,
- (b) people who live within the same household with seniors or people who have a disability,
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

“Seniors” are any of the following:

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

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

SECTION B –Prior to the Issue of a Construction Certificate or Demolition Conditions

The conditions that follow in this Section B of the Notice of Determination relate to the payment of fees, amendments being made to the proposal, further investigation being undertaken or the preparation of documentation that must be complied with prior to the issue of a Construction Certificate or Demolition.

Note: A copy of the Construction Certificate shall be forwarded to Council prior to commencement of construction where Council is not the certifier who issued the Construction Certificate.

(3) Asset & Building Fees

Payment of the following amounts as detailed below:

Damage Deposit of	\$ 76,015.00
*Builders Long Service Levy of	\$238,407.00
Driveway and Restoration Works Design Inspection Fee of	\$ 1500.00
Asset Inspection Fee of	\$ 105.00

*Note: The Builders Long Service Levy quoted is based on the market value of the proposed building works and the Levy Rate applicable at the time of assessing the Development Application and may be subject to change prior to payment.

(4) Section 94 Index

Section 94 Contributions are to be paid as detailed below in the following condition, and until paid all contributions will be indexed four (4) times a year (on the following dates) to allow for the cost increases: 31 January, 30 April, 31 July and 31 October.

(5) Section 94 Contributions

As at the date of Development Consent the following contributions have been levied on the subject development under Section 94 of the Environmental Planning and Assessment Act, 1979 and the nominated Section 94 Contributions Plans:

No.8 – Kogarah Town Centre – Streetscape, Open Space & Public Domain	\$1,717,562.75
No.8 – Kogarah Town Centre – Traffic Facilities	\$ 33,708.85
No.8 – Kogarah Town Centre – Community Facilities	\$ 30,619.14
No.9 – Kogarah Libraries – Buildings	\$ 28,334.02
No.9 – Kogarah Libraries – Books	\$ 20,202.08
TOTAL	\$1,830,426.84

Any of the above Section 94 Contributions Plans may be inspected at the Kogarah Council Customer Service Centre, 84 Railway Parade, Kogarah.

(6) Dilapidation Report

Prior to issue of any construction certificate or commencement of any demolition or earth works on site, the applicant shall submit, for acceptance by the Principal Certifying Authority (PCA), with a copy forwarded to Council where Council is not the PCA, a full dilapidation report on the visible and structural condition of the following properties;

All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.

The report must be completed by a suitably qualified consulting structural/ geotechnical engineer as determined necessary by that professional based on the excavations for the proposal, the subsoil conditions and any recommendations of a geotechnical report for the site. The report shall have regard to protecting the applicant from spurious claims for structural damage and shall be verified by all stakeholders as far as practicable.”

Reports relating to properties that refuse access to carry out inspections to complete the dilapidation report, after being given reasonable written notice to request access (at least 14 days) at a reasonable time (8.00am-6.00pm), are not to hold up the release of the Construction Certificate.

(7) Certification of Food Premises

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

- Food Act 2003;
- Food Regulation 2010;
- Food Safety Standards 3.1.1, 3.2.2 and 3.2.3;
- Australian Standard AS 4674 – 2004 (*Design, construction and fit-out of food premises*);
- Sydney Water Corporation;
- Australian Standard AS 1668 Part 1 – 1991;
- Australian Standard AS 1668 Part 2 – 1991;
- The Building Code of Australia.

Certification to this effect shall be provided by an appropriately qualified person.

(8) Grease Trap

To ensure that adequate provision is made for the treatment of waste water from the premises, floor plans accompanying the Construction Certificate application shall include provision for a Sydney Water approved grease trap. The grease trap installation shall also comply with the requirements of Australian Standard AS 3500 National Plumbing & Drainage Code and be capable of servicing all commercial sections of the development.

Certification from Sydney Water granting approval to the connection shall also be provided.

(9) Noise from road and rail

To minimise the impact of traffic noise from the adjoining major road and or the occupants, the building proposed development must be constructed in accordance with the recommendations of the acoustic report No. nss 21974 Rev C – Final prepared by Noise and Sound Services, titled “Road Traffic Noise Assessment for a Proposed New Integrated Care Village at Chapel Street Kogarah NSW 2217” dated November 2013 and submitted as a part of the development application.

(10) Ausgrid Sub Station

The applicant is to confer with Ausgrid to determine if an electricity distribution substation is required. If so, shall be incorporated within the Construction Certificate and it will be necessary for the final film survey plan to be endorsed with an area having dimensions 5m x 4m over the location of the proposed electricity distribution substation to be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid’s requirements are to be met prior to release of the occupation certificate.

(11) Sydney Water (DA Only)

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

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

Quick Check agents details - see Building Developing and plumbing then Quick Check; and Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating or telephone 13 20 92.

(12) Revised Landscape Plan

The landscape plan prepared by Melissa Wilson Landscape Architects, Project No. 1328, Sheets 1-5, Issue B dated 25/11/2013, shall be revised having regard to Section 134 of Kogarah Development Control Plans 2013 and include:

- (a) The proposed replacement 2 x Eucalyptus salignas shall be replaced with 2 x Lemon Scented Gums (Corymbia Citriodora) with the pot size of each increased to 200L.
- (b) The Agatha robusta pot size increased to 200L.
- (c) Proposed Water Gums (Tristaniopsis Laurina) street trees being planted at 7-10m intervals in the grass verge along Chapel Street.

The revised landscape plan shall be prepared by a landscape designer or landscape architect.

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

Certification to this effect shall be provided by an accredited certifier.

(13) Design and Construction of Retaining Wall to Princes Highway

The proposed retaining wall along Princes Highway shall be designed and constructed to match the brick and design of the wall to the front of the heritage item, St Patrick's Church. Details of the design shall be submitted to the Principal Certifying Authority (PCA) with a copy forwarded to Council where Council is not the PCA.

SECTION C – Prior to Commencement of Construction Conditions

The conditions that follow in this Section C of the Notice of Determination are specific to the proposed development and must be complied with prior to the commencement of construction on the site.

(14) Geotechnical Report

Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site. In this regard, all excavated waste materials shall be disposed of at an approved Waste Depot.

No rock breaking or other machinery for the excavation, drilling, cutting or removal of rock shall be used on the site prior to the acceptance by the principal certifying authority of the following documentation:

A report by a geotechnical engineer detailing the measures recommended in undertaking the works so as to prevent damage to any adjoining or nearby buildings.
The type and size of machinery proposed.
The routes of all trucks to convey material to and from the site.

(15) Detailed Stormwater Plan

The submitted stormwater plan has been assessed as a concept plan only and no detailed assessment of the design has been undertaken.

A Stormwater Detailed Plan and supporting information of the proposed on-site stormwater management system including any measures to control quality and quantity of the stormwater runoff discharged from the site are to be submitted. The required details in this Plan and the relevant checklist are presented in Council's Water Management Policy.

The design parameters and the general concept of the proposed on-site stormwater management system are to be the same as documented in the approved Stormwater Concept Plan for the proposed development. Any variation to the approved concept design is required to be justified and supported by appropriate details, calculations and information to allow proper assessment of the revised concept design.

(16) Certification of Detailed Plan

The detailed stormwater plan is to be certified by a Chartered Professional Engineer. A statement, that the stormwater system has been designed in accordance with Council's Water Management Policy and satisfies the provisions and objectives of that policy, must be included in the Stormwater Detailed Plan.

(17) On-Site Detention

A 104.1m³ On-Site Detention system with a Maximum Site Discharge of 99.1 Litres per Second is to be provided in accordance with the Stormwater Concept Plan and associated Design Assessment Report. The overflow is to be directed to the site drainage system.

(18) Certification by Mechanical Engineer

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

- The Building Code of Australia;
- Australian Standard AS 1668 Part 1 - 1998;
- Australian Standard AS 1668 Part 2 - 2002;
- The Public Health Act 2010;
- The Public Health Regulation 2012;
- Australian Standard 3666.1 - 2002;
- Australian Standard 3666.2 - 2002;
- Australian Standard 3666.3 - 2000.

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

(19) Tree Protection

Prior to the commencement of any works on the site the tree protection measures required for the established Tree Protection Zone (TPZ) of the trees to be retained shall be installed in accordance with Section 4 - *Australian Standard AS 4970-2009 - Protection of trees on development sites*.

Unless otherwise specified in AS 4970-2009 a protective fence consisting of 1.8m high fully supported chainmesh shall be erected around the base of the tree. The distance of the fence from the base of each tree is to be in accordance with the TPZ listed below. A layer of organic mulch 100 millimetres thick shall be placed over the protected area and no soil or fill should be placed within the protection area.

There shall be no services installed within the drip line TPZ of the tree. This fence shall be kept in place during demolition, construction and also have a sign displaying "Tree Protection Zone" attached to the fence, this must also include the name and contact details of the Project Arborist.

(20) Tree Retention – Arborist Report

The trees identified for retention on the approved plan in the Arborist Report prepared by **REDGUM Horticultural – Arboriculture & Horticulture Consultants** by and dated 18th February 2014 and listed below shall be protected in accordance with the Arborist Report and the requirements of Section 4 - *Australian Standard AS 4970-2009 - Protection of trees on development sites*.

Tree Species	Location of Tree/Tree No
44, 40 & 49	143 Princes Highway
29 (x5), 45, 46, 47	Neighbouring properties

(21) Driveway

In respect to vehicular access to the proposed development the gutter across the driveway are to be reconstructed between the kerb and street alignment to Council's specifications.

In this regard a separate driveway application is to be lodged with Council for works outside the property boundary. Furthermore the design boundary level is to be received from Council prior to construction of the internal driveway.

(22) Council Infrastructure Inspection

Prior to the commencement of any works an authorised representative of the applicant is to organise and attend a meeting on site with Council's Infrastructure Compliance Co-ordinator to discuss protection of Council's infrastructure. To organise this meeting contact Council's Customer Service Centre on 9330 9400.

(23) Public Liability Insurance

All nominated contractors / applicants carrying out driveway and/or restoration works on Council property must carry public liability insurance with a minimum cover of twenty million dollars (\$20,000,000.00). In this regard, prior to commencement of works, the principal contractor is to lodge an "Application for the Construction of Work by Private Contractor" to Council, which includes submitting evidence of their current insurance. The principal contractor must ensure that sub-contractors are also adequately insured.

(24) Stormwater - Provision for Maximum Combined Discharge

The Detailed Stormwater Plan is to be amended to allow for a maximum combined discharge from the On-Site Detention tanks of 99.1 Litres per Second to be in accordance with the requirements of Council's Water Management Policy.

(25) Stormwater Quality Objectives

The Detailed Stormwater Plan must indicate how the Stormwater Quality Objectives will be achieved on the site prior to discharge. Stormwater discharging from the site must reach the following performance criteria as a minimum:

- Total Suspended Solids (TSS) yearly average concentration in runoff from developed sites shall not exceed 34 mg/L.
- Total Nitrogen (TN) yearly average concentration in runoff from developed sites shall not exceed 2 mg/L.
- Total Phosphorus (TP) yearly average concentration in runoff from developed sites shall not exceed 200 µg/L.
- 90% of gross pollutant loads (litter and heavy sediments), oil and grease are retained on site.

All treatment devices must be located downstream of all car parking areas and other highly trafficked surfaces. For more information on Kogarah City Councils Stormwater Quality Objectives, please refer to Kogarah City Councils Water Management Policy - Policy Provisions and Practice Note #2 "Water Quality Control Systems" available on our website.

http://www.kogarah.nsw.gov.au/_data/assets/pdf_file/0008/3122/Practice_note_21.pdf

(26) Submission of Final Stormwater Plans and Calculations to RMS

The applicant will be required to submit the finalised Detailed Stormwater Plans and Hydraulic Calculations to Roads and Maritime Services for approval prior to the commencement of any construction works on site.

(27) Impact of Noise

The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations.

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A). The source noise level shall be assessed as an $L_{Aeq, 15min}$ and adjusted in accordance with the NSW Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

SECTION D – Construction and Operational Conditions

The conditions that follow in this Section D of the Notice of Determination are imposed to ensure the development is constructed and operates having regard to relevant legislation and does not unreasonably impact on the amenity of the locality or environment during the construction phase or the operation of the use.

(28) Inspections -Multi Unit

The following lists of inspections are the MANDATORY CRITICAL STAGE INSPECTIONS that MUST be carried out by the Principal Certifying Authority (PCA).

- (a) at the commencement of building works
- (b) prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
- (c) prior to covering any stormwater drainage connections, and
- (d) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Certificates from your engineer or subcontractor are NOT acceptable in the first instance for the above inspections. Failure to have your PCA carry out these inspections could result in a delay or refusal to issue an Occupation Certificate.

In addition to the above, it is recommended that the following inspections be carried out for the subject development;

- Erosion Control
- Earthworks/Excavation
- Building setout
- Concrete reinforcement
- Timber and/or steel framework
- Mechanical/Hydraulic work
- Driveways
- Landscaping
- External Finishes

(29) Storage of materials on Public Road

All building materials or waste containers must be stored within the confines of the site. The storage of such building materials, waste containers or equipment associated with the project upon the public roadway, including the pedestrian footway or unpaved verge, is prohibited.

(30) Use of Crane on Public Road

Prior approval must be obtained from Council a minimum of 24 hours before the use on any site of a crane, hoist or similar machinery that will be used to transfer materials across Council's footpath. This includes cranes that are situated on roadways, footpaths and road reserves.

Any application for approval must be accompanied by the following information:-

- Site sketch indicating the proposed location of the crane, pedestrian controls and traffic controls;
- A copy of current public liability insurance with minimum cover of twenty million dollars (\$20,000,000) indemnifying Council in the event of an incident;
- A copy of an RMS accredited traffic control plan;
- Proof that the local area command of the NSW Police have been advised of the proposal.

The use of a crane, hoist or similar machinery on any site without prior approval is prohibited.

(31) Excavation of Site

Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site. In this regard, all excavated waste materials shall be disposed of at an approved Waste Depot (details are available from Council).

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided and adequate provision shall be made for drainage.

(32) Stormwater to Kerb

Any stormwater connections to the kerb and gutter are to be in accordance with Council's *'Specification for Construction by Private Contractors'*.

(33) Redundant Driveway

All existing vehicular crossings adjacent to the subject premises that have become redundant shall be removed and the footway and kerb and gutter reinstated at the developer/applicants expense.

(34) Work within Road Reserve

A Development Consent or any related Construction Certificate does not allow for the erection of a structure or to carry out work in, on or over a public road. Should a structure or work be required a separate approval under S138 of the Road Act 1993 must be granted by Council prior to the commencement of any works within the road reserve. Applications may be made at Council's Customer Service Centre.

(35) Damage within Road Reserve & Council Assets

The applicant shall bear the cost of restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site. This may include works by Public Utility Authorities in the course of providing services to the site.

(36) Public Utility & Telecommunication Assets

The applicant shall bear the cost of any relocation or modification required to any Public Utility Authority assets including telecommunication lines & cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.

(37) Detailed Construction Management Plan

Prior to the issue of any construction certificate, any demolition or earthworks on the site, the applicant shall submit to Council for approval a Construction Management Plan detailing the following:

- The route and number of trucks conveying materials to and from the site.
- Location of loading and unloading areas for trucks with times outside of school drop off / pick up.

- Parking areas for tradesmen and other construction vehicles.
- Traffic Control Plans by an RMS accredited person.
- Demonstration that residential access to nearby properties is maintained during demolition and construction works.

(38) Linemarking of Parking Spaces

The carparking spaces shall be linemarked and numbered in accordance with *AS/NZS 2890.1:2004 - Off Street Car Parking, Section 4.4.1.*

(39) Marking of Pavement Arrows

The pavement arrows in the carpark areas shall be in accordance with *AS/NZS 2890.1:2004 - Off Street Car Parking, Section 4.4.3.*

(40) Dilapidation Report – Road Assets

A Dilapidation Report to cover Council's assets on Chapel Street, Princes Lane and the Princes Highway shall be submitted to Council prior to any demolition or earthworks on the site.

(41) Works Zone – Chapel Street

The installation of a "Works Zone" on Chapel Street will require the approval from the Kogarah Local Traffic Committee. As a result, the applicant shall provide a formal request to Council's Traffic Section with the duration and exact location of the required "Construction Zone" at least 6 weeks prior to its required installation date.

(42) Roads and Maritime Services Requirements

The recommended conditions in the referral response given by Roads and Maritime Services dated 21 January 2013 attached to this consent shall be implemented.

(43) Stormwater Drainage

All roof water and surface water from paved or concreted areas being disposed of to the street gutter by means of a sealed pipeline constructed in accordance with *AS/NZS 3500.3.2*. The line must pass through a silt arrestor pit, a standard design is available within Council's Water Management Policy.

(44) Garbage Room

The proposed garbage rooms being provided with the following:-

- A smooth concrete floor graded and drained to a floor waste connected to the sewer of the Water Board.
- The walls being cement rendered with the intersection of the walls and floor being coved to a radius of not less than 25mm.
- The door being close fitting to prevent the access of rats and mice.
- A cold water hose cock being provided for the cleaning of containers and the room itself.

- Ventilation being provided by means of direct connection to the outside air to the satisfaction of Council.
- A sign, minimum size 600mm x 600mm, directing residents not to place recyclables in garbage carts and encouraging residents to recycle. Details of an acceptable wording for the sign are available from Council.

(45) No Offensive Noise

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

(46) Hours of Construction

Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.

(47) Construction & Excavation Hours

- a) That the generally permitted construction hours be maintained at 7:00am – 5:00pm Monday to Saturday with no work on Sunday or Public Holidays.
- b) That a standard condition be imposed on developments that propose basement parking or other significant excavation (other than single residential dwellings) restricting the hours of rock breaking, cutting, hammering and drilling to 9:00am – 4:00pm on weekdays only.
- c) That on any site where the standard condition referred to in item b) above is imposed an accompanying standard condition be imposed requiring the submission of a noise management plan which has been prepared by a suitably qualified acoustical practitioner in accordance with the Interim Noise Construction Guidelines prepared by the Department of Environment & Climate Change NSW.

(48) Provision of Amenities

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site or as specified by Workcover requirements .

- each toilet provided must be a standard flushing toilet and must be connected:
- to a public sewer; or
- if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council; or
- if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities must be completed before any other work is commenced.

(49) Letter Boxes

Suitable letter box facilities (including Owner's Corporation in the case of strata units) shall be provided in accordance with Australia Post specifications.

(50) No Sign erected without DA Consent

No advertisement or sign shall be erected or displayed without development consent from Council, unless exempted under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or Development Control Plan No.26 – Exempt and Complying Development. Any advertising matter relating to the previous use of the premises shall be removed.

(51) Avoid Annoyance from lighting

Any lighting of the premises shall be installed in accordance with Australian Standard AS 4282 – 1997: Control of the Obtrusive Effects of Outdoor Lighting so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. Flashing, moving or intermittent lights or signs are prohibited. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if Council considers there to be adverse affects on the amenity of the area.

(52) General Amenity

The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.

(53) Disposable Sharps

Disposable sharps waste shall be discarded in a clearly labelled puncture-resistant container which shall conform to Australian Standard AS 4031. A licensed waste contractor shall be engaged to dispose of the waste. Waste receipts for all sharps waste shall be available to Council upon request.

(54) Oil/Silt Separator

An oil/silt separator sized to the catchment area must be specified on the Stormwater Detailed Plans and located downstream of the proposed basement car park and prior to discharge to councils stormwater system.

(55) Basix Certificate Details – DA Only

Construction of building works given Development Consent must be carried out in accordance with a valid and current BASIX certificate and all required commitments must be satisfied.

(56) Building Finishes

The building finishes are to be constructed in accordance with the colour board and perspective submitted with the Development Application project No. 00-18, drawing No. DA210, Issue 1, dated 28/11/13, prepared by Greengate Design Pty Ltd.

(57) Allocation of Car Parking Spaces

A minimum of one hundred and fifty two (152) spaces in the basement car park and thirty-two (32) spaces at grade

- (a) Twenty (20) car spaces shall be allocated in the basement car park for staff of the facility.
- (b) One hundred and thirty two (132) spaces for residents and visitors
- (c) Thirty-two (32) spaces for the Church and School
- (d) One (1) dedicated ambulance bay at the lower ground floor level area off Princes Lane as shown on the plans.

(58) Tree Protection - Excavation

Excavations around the trees to be retained on site or the adjoining properties shall be supervised by the Project Arborist to ensure that the root system will not adversely be affected.

Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the Project Arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.

Tree Protection Zone (TPZ) around the trees to be retained are not to have soil level changes or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.

(59) Tree Removal

The trees identified in the table below may be removed:

Tree Species	Location on Site/Tree No	Work Required
1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,30,31,32,33,34,35,36,37,38,39,41,42,43, E1(x4),	143 Princes Highway and 38-48 Chapel St	Removal

All tree removals are to be carried out by a certified Tree Surgeon/Arborist to ensure that removal is undertaken in a safe manner and complies with the AS 4373-2007 - Pruning of Amenity Trees) and Tree Works Industry Code of Practice (Work Cover NSW 1.8.98).

No trees are to be removed on the site or neighbouring properties without the prior written approval of Council.

(60) No trees to be removed, pruned or damaged

No trees are to be removed, pruned or damaged on site or neighbouring properties unless there is written approval from Council in accordance with Clause 5.9 of KLEP 2012.

(61) Porous Paving to Camphor Laurel Tree

Porous Paving shall be used for any approved paving works within the drip-line of the Camphor Laurel (tree no. 49 listed in the Arboricultural Impact Assessment reviewed by REDGUM Horticultural dated 18/02/2014)

(62) Sydney Airports Corporation

The proposal shall comply with the following requirements of Sydney Airports Corporation Ltd and Civil Aviation Authority:

- (i) The building must not exceed a maximum height of 64m AHD – inclusive of the building maintenance unit, all lift over-runs, vents, chimneys, aerials, antennae (of whatever type), lightning rods, and rooftop garden plantings.
- (ii) The building must be obstacle lit with a low intensity, steady red light in accordance with the Manual of Standards for Part 139 (Part 139 MOS) of the Civil Aviation Safety Regulations. The light must be visible in a 360 degree radius and must be located on the highest point of the building.
- (iii) The proponent must arrange for a certified surveyor to notify SACL details of the finished height (in metres AHD) and location of the building on completion of construction.

(63) Sydney Airports

Any temporary structure or construction equipment that exceeds the approved height of the development may require approval from Sydney Airports Corporation in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No.161.

Note: Construction cranes may be required to operate at a height significantly higher than that of the proposed control activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.

(64) Acoustic Validation – Infrastructure SEPP

A report prepared by an accredited Acoustic Consultant shall be submitted to the Principal Certifying Authority (PCA) certifying that the development complies with the requirements of State Environmental Planning Policy (Infrastructure) 2007, conditions of development consent and recommendations of the acoustic report No. nss21974 Rev C – Final, prepared by Noise and Sound Services, titled “Road Traffic Noise Assessment for a Proposed New Integrated Care Village at Chapel Street Kogarah

NSW 2217” dated November 2013. The report shall include post construction validation test results.

(65) Completion of Landscaping

Certification shall be provided from a suitably qualified and experienced Landscape Designer or Landscape Architect. This Certification shall verify that the landscape works have been completed in accordance with the approved detailed landscape plan and relevant conditions of this consent.

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

(66) Certification of All Services

Prior to release of the subdivision certificate, a Registered Surveyor shall certify that all services (eg. interallotment drainage, water, gas, electricity, telecommunications) are underground and contained separately within each proposed new lot or alternatively within easements created to accommodate those services.

(67) Consolidation of Lots

The lots covered by this development consent shall be consolidated into one lot and proof of registration of the consolidation shall be submitted to Council.

(68) Section 73 Compliance Certificate

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

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

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water / sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority.

(69) SEPP Housing for Seniors or People with a Disability - Restriction as to User

A Restriction as to User shall be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919. This restriction shall limit the use or occupation of any accommodation to the

kinds of people referred to under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

Specifically, only those people who meet the following criteria may occupy this accommodation:

- (a) seniors or people who have a disability,
- (b) people who live within the same household with seniors or people who have a disability,
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

“Seniors” are any of the following:

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

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

This Restriction as to User shall be registered.

SECTION E – Prior to Occupation or Subdivision Certificate Conditions

The conditions that follow in this Section E of the Notice of Determination relate to conditions that ensure that the development is completed in accordance with the requirements of the Development Consent prior to the issue of either an Occupation Certificate or a Subdivision Certificate.

(70) Stormwater Compliance Certificate

A Stormwater Compliance Certificate is to be obtained for the constructed on-site stormwater management systems in conjunction with the works-as-executed drawings and the final inspection. This Certificate is to be signed by an accredited hydraulic engineer (preferably be the original design consultant) and submitted to the Principal Certifying Authority. Copy of the standard Stormwater Compliance Certificate is shown in Council’s Water Management Policy.

If the proposed works involve Council owned stormwater infrastructure (or infrastructure to be owned by Council), then the applicant should organise inspection with Council and pay Council the appropriate inspection fee. Inspection is to be carried out at the following specified stages:

- Prior to backfilling of pipelines trenches.
- Prior to backfilling of drainage connection to pipeline or channels.

- Prior to casting pits and other concrete structures including kerb and gutter, aprons, pathways, vehicular crossings, dish crossings and pathway steps.

(71) Positive Covenant

A Restriction on Use of the land and Positive Covenant shall be created and registered on the title of the property, which places the responsibility for the maintenance of the on-site stormwater management system on the owner of the land. The terms of the instrument are to be generally in accordance with the Council's standard terms and conditions for Restriction on Use of the land and Positive Covenant shown in Council's Water Management Policy.

(72) Easements and Right of Carriageway

The following easements, rights of carriageway and Restrictions as to Title, over the proposed lots shall be submitted to Council with the linen plan or subdivision. Such an instrument shall name Kogarah City Council as the only authority empowered to release, vary or modify the terms within that document. These are:-

- (a) Provision of access for service vehicles off Princes Lane.
- (b) Reciprocal right of carriageway over lots 1 and 2.
- (c) Any other easements for services as required.
- (d) Right of way for access and parking as required.

(73) Hairdressing Salon etc Registration

The hairdressing salon must be registered with Council's Environmental Health Officers to ascertain compliance with the *Public Health Act 2010* and the *Local Government (General) Regulation 2005*.

(74) Maintenance Schedule

A Maintenance Schedule for the proposed on-site stormwater management measures is to be prepared and submitted. The Maintenance Schedule shall outline the required maintenance works, how and when these will be done and who will be carrying out these maintenance works.

(75) BASIX Completion Receipt

In accordance with clause 154C of the Environmental Planning and Assessment Regulation 2000, prior to issuing a final occupation certificate the certifying authority must apply to the Director-General for a BASIX completion receipt.

SECTION F – Prescribed Conditions

The following are prescribed conditions of development consent pursuant to s.80A(11) of the Environmental Planning and Assessment Act 1979 and cl.98 of the Environmental Planning and Assessment Regulation 2000.

(76) Compliance with the Building Code of Australia

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

(77) Insurance Requirements under Home Building Act 1989

The builder or person who does the residential building work must comply with the applicable requirements of Part 6 of the Home Building Act, 1989. This means that a contract of insurance must be in force in accordance with Part 6 of that Act before any building work authorised to be carried out by the consent commences.

It is the responsibility of the builder or person who is to do the work to satisfy Council that they have complied with the applicable requirements of Part 6 of the Home Building Act, 1989.

If Council is the Principal Certifying Authority it will not carry out any inspections until a copy of the insurance certificate is received.

(78) Erection of Signs

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.

The 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.

(79) Notification of Home Building Act 1989 Requirements

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) in 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.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above 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.

(80) Shoring and Adequacy of Adjoining Property

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.

The above condition 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.

(81) Council Notification of Construction

The erection of a building which is the subject of a Development Consent must not be commenced until:

- a) Detailed plans and specifications of the building have been endorsed with a construction certificate by Council or an accredited certifier.
- b) the person having the benefit of the development consent has:
 - appointed a Principal Certifying Authority (PCA), and
 - notified Council (if Council is not the PCA) *in writing* of the appointment, and
 - given at least 2 days notice to Council of their intention to commence the erection of the building. The notice may be in writing or by phone.

SECTION G – Demolition Conditions

The following conditions are imposed to ensure the demolition associated with the proposed development is carried out having regard to relevant legislation and does not unreasonably impact on the amenity of the locality or environment.

(82) Demolition Conditions-Asbestos

- (a) Demolition of buildings where asbestos is determined to be present should only occur 7am – 5pm Monday to Saturdays, and must not occur on Sundays or Public Holidays, to ensure that the persons carrying out the work have access to WorkCover professionals if required.
- (b) All asbestos removal shall be undertaken in accordance with the occupational hygienists report submitted with the development application and in compliance with the requirements of WorkCover's 'How to Safely Remove Asbestos' Code of Practice and Council's Asbestos Policy.
- (c) Written notice must be provided to Kogarah Council five (5) working days (excluding public holidays) prior to commencement of any works.

Written notice is to include the following details:

- Date the demolition will commence
- Name, address, contact details (including after hours) and licence number of the demolisher and asbestos removalist (if different)

Work must not commence prior to the nominated demolition date.

Note: it is the responsibility of the persons undertaking demolition work to obtain the relevant WorkCover licences and permits.

- (d) The applicant is to notify all owners and occupiers of premises on either side, opposite and at the rear of the development site five (5) working days prior to demolition. Such notification is to be clearly written on A4 size paper stating the date the demolition will commence and is to be placed in the letterbox of every premises (including every residential flat or unit, if any). The demolition must not commence prior to the date and time stated in the notification.
- (e) A demolition or asbestos removal contractor licensed under the *Work Health and Safety Regulations 2011* must undertake removal of more than 10m² of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).

Removal of friable asbestos material must only be undertaken by a contractor that holds a current AS1 Friable Asbestos Removal Licence.

- (f) Demolition sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is

to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.

- (g) All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2005. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.
- (h) A Clearance Certificate or Statement, prepared by a suitably qualified occupational hygienist must be provided to Council upon completion of demolition and asbestos related works, which confirms that the relevant legislative requirements in relation to safe removal and disposal have been satisfied.
- (i) A Work Cover Licensed Demolisher is to be engaged to carry out any demolition works using mechanical equipment where the structure is over 4 metres in height or to carry out any manual demolition works on a structure over 10 metres in height.
- (j) The provision of temporary fences and footpath crossing pads prior to commencement of demolition operations. Further, no waste materials or bins are to be placed on Council's roadways or footpaths.
- (k) No waste materials are to be burnt on site.
- (l) No trees as defined by Council's Tree Preservation Order being removed or damaged on the site without the prior written approval of Council.
- (m) Compliance with the provisions of Australian Standard AS 2601-1991:"The Demolition of Structures", which requires notification of demolition to be submitted at least seven (7) days prior to demolition to the NSW Workcover Authority.
- (n) Effective erosion and sediment control measures are to be undertaken during the course of demolition and building works in accordance with Council's 'Environmental Site Management Policy'. Failure to implement appropriate measures may result in a \$750 Penalty Infringement Notice (individual) and/or \$1,500 (corporation) being issued and/or the incurring of a maximum penalty of \$250,000 (corporation) or \$120,000 (individual) through the Land and Environment Court.
- (o) Appropriate measures are to be implemented on site to control dust and other air borne matter and demolition material is to be stored and stacked in a manner so as to minimise the risk of damage or nuisance to neighbouring properties.
- (p) Council being notified upon completion of the demolition works so that an inspection can be made of the roadway and footpath.
- (q) All non-recyclable demolition material being disposed of at an approved waste disposal depot. Details as to the method and location of disposal of demolition

materials (weight dockets, receipts, etc.) should be kept as evidence of approved method of disposal.

- (r) 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.

The 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

END CONDITIONS

Advisory Notes

(i) Worksite Safety

It is usually the owner/applicant's responsibility to ensure that the development site is a safe working environment. This may be by the engagement of an appropriately competent principal contractor. There are various legislative and WorkCover requirements with respect to maintaining a safe work-site. Details of these requirements and legislation, as well as, guidance and advisory material, can be found on the WorkCover Website www.workcover.nsw.gov.au.

(ii) Worksite Safety Scaffolding

Council is committed to worksite safety and requiring that all scaffolding is installed by competent and qualified professionals with the relative appropriate standards. The applicable Australian Standards for the scaffolding is AS/NZS1576 in respect of the design of the scaffolding and AS/NZS4576 with respect to the erection of the scaffolding. Also, you should ensure that those erecting scaffolding are appropriately qualified and have the appropriate qualifications to erect scaffolding. For further information regarding this please see www.workcover.nsw.gov.au.

(iii) Dial Before You Dig

Underground pipes and cables may exist in the area. In your own interest and for safety, telephone 1100 before excavation or erection of structures. Information on the location of underground pipes and cables can also be obtained by fax on 1300 652 077 or through the following website www.dialbeforeyoudig.com.au.

(iv) Disability Discrimination Act

This authorisation does not imply that the proposal complies with *Disability Discrimination Act 1992*. The Proponent is responsible to ensure compliance with this and other anti-discrimination legislation. The *Disability Discrimination Act 1992*

covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 – Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under *The Disability Discrimination Act 1992*.

(v) Demolition Waste

Sorting your construction and demolition waste will save you money. For pricing and disposal options for sorted loads of tiles, bricks, timber concrete or asphalt call Waste Service NSW on 1300 651 116.

(vi) Property Address

Property addresses shall be allocated by Council in accordance with the Addressing Standard AS/NZS 4819:2011.

Yours Sincerely,

Ben Latta
Senior Planner