

**JOINT REGIONAL PLANNING PANEL
(Sydney West Region)**

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| JRPP No | 2013SYW062DA |
| DA Number | 102/13 |
| Local Government Area | Ku-ring-gai Council |
| Proposed Development | Demolish existing structures and construct a 98 bed residential aged care facility, basement parking and associated works |
| Street Address | 238 – 240 Mona Vale Road St Ives |
| Applicant | Midson Group Pty Ltd |
| Owner | Dasmin Pty Ltd |
| Number of Submissions | Nine (9) |
| Recommendation | Approval (Deferred Commencement) |
| Report by | Janice Buteux-Wheeler, Senior Assessment Officer |

EXECUTIVE SUMMARY

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| Primary Property | 238-240 Mona Vale Road ST IVES NSW 2075 |
| Lot & DP | Lot 3 DP 1091770 |
| Proposal | Demolish existing structures and construct a 98 bed residential aged care facility, basement parking and associated works |
| Development application no. | DA0102/13 |
| Ward | ST IVES |
| Applicant | Midson Group Pty Ltd |
| Owner | Dasmin Pty Ltd |
| Date lodged | 5 April 2013 |
| Issues | Traffic, parking, building height, building form, landscape outcomes |
| Submissions | Yes (9) |
| Land & Environment Court | N/A |
| Recommendation | Approval |
| Assessment Officer | Janice Buteux-Wheeler |

LEGISLATIVE REQUIREMENTS:

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|-------------------------------|---|
| Zoning | R3 Medium Density Residential |
| Permissible under | SEPP (Housing for Seniors or People with a Disability) 2004 |
| Relevant legislation | SEPP (Housing for Seniors or People with a Disability) 2004 SEPP (Infrastructure) 2007 SEPP 55 (Remediation of Land) SREP 20 (Hawkesbury Nepean River) Ku-ring-gai Local Environmental Plan (Local Centres) 2012 Ku-ring-gai Local Centres Development Control Plan 2013 Section 94 – Development Contribution Plan |
| Integrated development | NO |

PURPOSE FOR REPORT

To determine Development Application No. 0102/13, which is for demolition of existing structures and construction of a 98 bed residential aged care facility, basement parking and associated works.

The application is required to be reported to the Joint Regional Planning Panel as the stated cost of works (CIV) of \$20.24 million exceeds \$20 million and, as such, is considered to be regional development. Further, the

application is a private community facility with a stated cost of works (CIV) of greater than \$5 million.

HISTORY

Site history and background:

The site has historically been used as a retail plant nursery (Camellia Grove Nursery) with historic connections to Eryldene and Professor Waterhouse. The site has an open landscape character with perimeter plantings of Camellias, Azaleas and Magnolias which were primarily used as display gardens and plant stock for propagation. The site is surrounded on two sides by arterial roads. Due to the former use of the site as a plant nursery, the site has a high visual and cultural profile. The site is currently vacant.

Development application history:

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| 05 April 2013 | Development Application was lodged |
| 11 April 2013 | Letter to applicant requesting confirmation of owners consent was sent |
| 17 April 2013 | Letter to applicant requesting Integrated Development fees |
| 19 April 2013 | Application was notified/advertised for 30 days |
| 22 April 2013 | NSW Roads and Maritime Services advised that the application is not integrated |
| 13 June 2013 | NSW Office of Water advised that the application is not integrated |
| 27 June 2013 | Application was considered by the Traffic Generating Developments Advisory Committee |
| 15 July 2013 | Information request letter was sent to applicant |
| 11 December 2013 | Concept alternatives were provided by the applicant |
| 27 March 2014 | Amended proposal was provided by the applicant |
| 1 April 2014 | Amended proposal was notified for 14 days |
| 23 April 2014 | Concurrence was provided by NSW Roads and Maritime Services |

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| 8 July 2014 | Further information request letter was sent to applicant |
| 22 July 2014 | Additional information was provided by the applicant |
| 25 July 2014 | Council staff briefed the Joint Regional Planning Panel |
| 26 September 2014 | Tree works approval issued |

THE SITE AND SURROUNDING AREA

The site:

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|-------------------------------------|-----------------------------------|
| Visual character study category: | 1945 - 1968 |
| Easements/rights of way: | Yes (easements to drain water) |
| Heritage Item: | No |
| Heritage conservation area: | No |
| In the vicinity of a heritage item: | Yes (89 Killeaton Street St Ives) |
| Bush fire prone land: | No |
| Endangered species: | No |
| Urban bushland: | No |
| Contaminated land: | Yes |

The site has an area of 5539m² and comprises Lot 3 DP 1091770. The site is a triangular in shape, with frontages to two arterial roads, being Mona Vale Road (East) and Link Road (South) and also a third frontage to Killeaton Street (North).

The topography of the site is relatively flat, with a cross fall of approximately 2.2m across the site, the high point at the south-east corner at RL152.25 to the low point at RL150.05 at the midpoint of the northern boundary at Killeaton Street. A natural depression consistent with the drainage easements run through the centre of the site.

The constraints for the site include exposure to noise sources, vehicle access, and Council and RMS easements for drainage.

The subject site benefits from being within 500m² of public transport. Shops and facilities of the St Ives Local Centre are accessible by near level footpaths.

Surrounding development:

The site is bounded to the south by Link Road and recently constructed R4 zoned residential flat buildings (RFBs). The site is bounded to the North by Killeaton Street and R2 low density residential detached single and two-storey dwellings and low density independent seniors living housing. Mona Vale Road, a pre-school, primary school, church and Masada College High School are located to the east.

A single-storey weatherboard heritage item is located on the northern side of Killeaton Street.

THE PROPOSAL

The proposal, as amended, involves demolition of the existing nursery related structures on the site and construction of a ninety eight (98) bed residential aged care facility under the provisions of SEPP (Housing for Seniors or People with a Disability) 2004.

The residential aged care facility consists of 98 beds contained within a 3 and partial 4 storey building and car parking for 29 vehicles and is comprised of the following:

- 68 standard care beds for frail and elderly
- 30 specialist beds for dementia care
- 26 basement car spaces
- 3 at-grade car spaces
- 1 Loading dock space at-grade

Specifically, the building configuration is as follows:

Basement

Bike storage, 26 car parking spaces (including one accessible parking space), lobby, workshop, archive room, medical chemical storage area, plant, dry storage.

Ground floor

Porte cochere, entry foyer, two lounge areas, two dirty utility rooms, clean utility room, store rooms, two nurse stations, two dining rooms, waiting area, consultation rooms, greeting rooms, office spaces, waste rooms and 30 bedrooms.

Level 1

Two lounge areas, utility rooms, store rooms, nurse station, laundry, dining room and 34 bedrooms.

Level 2

Two lounge areas, utility rooms, store rooms, nurse station, kitchen, dining room and 34 bedrooms.

Level 3

Staff lounge, amenities, dining space, nail and hair salon, café, lounge and rooftop terrace area in association with the development.

COMMUNITY CONSULTATION

In accordance with the requirements of Part 5, Volume 3 of the Ku-ring-gai Local Centres Development Control Plan 2013, owners of surrounding properties were given notice of the application. Submissions from the following were received:

1. *Mr G L & Mrs N M Watson, 5/95 Killeaton Street, St Ives*
2. *Mr G K Holm, 16 Myrtle Place, St Ives*
3. *Mr R T McConnell, 22/2-4 Sturt Place, St Ives*
4. *Mr R M & Mrs M L Wallace, 10/95 Killeaton Street, St Ives*
5. *The Residents "Stapleton", c/- 9/95 Killeaton Street, St Ives*
6. *Mr S Clark, 16/4 Golf Avenue, Mona Vale*
7. *Mr D X Zhao & Ms C H Weng, 502/8-12 Kensington Street, Kogarah*

The submissions raised the following issues:

Construction traffic management in Killeaton Street

Council's Development Engineer is satisfied with the Construction Traffic Management plan contained within the submitted traffic engineer's report. It is recommended that this be refined at Construction Certificate stage **(Condition 12)**.

NSW Roads and Maritime Service (RMS) require that the Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control be submitted to Roads and Maritime for concurrence prior to the issue of a Construction Certificate **(Condition 12)**.

Relocation of the pedestrian crossing at the intersection of Mona Vale Road and Killeaton Street

This aspect was considered by the Traffic Generating Developments Advisory Committee and by Council's Development Engineer. It is not anticipated that this pedestrian crossing will be widely used by residents or visitors to the residential aged care facility, as this crossing is not within the path of travel to either the bus stops or the local shopping and commercial services of St Ives Local Centre. As such, the concerns related to this intersection are considered to be wider traffic network considerations that are not affected by and do not affect the proposed development.

Inadequate car parking

Clause 48(d) of the SEPP (Housing for Seniors and People with a Disability) stipulates that the development cannot be refused on the basis of insufficient

car parking if one parking space per 10 beds, one parking space per 2 persons on duty and one space for an ambulance are provided.

The Statement of Environmental Effects gives the maximum number of staff on site as 35. Therefore, the development requires 11 spaces for residents and visitors, 18 spaces for staff and the one ambulance space, a total of 29 spaces and one ambulance bay.

The proposal provides the required 29 spaces and complies with the SEPP (Housing for Seniors and People with a Disability) 2004 requirement.

Danger in entering and exiting the driveway due to cars parked on Killeaton Street.

The Traffic Committee has recommended that *No Stopping* restrictions be installed approximately 10 metres either side of each access point. This will allow adequate sight distance for vehicles leaving the site **(Condition 7)**.

The development meets the on site car parking requirement of the SEPP (Housing for Seniors and People with a Disability). In this regard, the development does not rely on street parking.

Lack of street parking

The development meets the on site car parking requirement of the SEPP (Housing for Seniors and People with a Disability). In this regard, the development does not rely on street parking.

The traffic engineer's report states that the traffic generation of the development is expected to be low, and compared to the previous use of the site as a nursery. This is accepted. Visitor trips to the facility are likely to be made outside of peak hours. Additionally, staff shift hours given in the traffic report are generally outside peak hours with the exception of the 7am shift.

Concern regarding transplanting Camellias

Council's Landscape and Tree Assessment Officer has requested that the applicant identify all existing Camellia, Azalea and Magnolia species on site due to the likelihood that there were species and cultivars worthy of relocation, transplanting and retention.

The inventory of cultivars was undertaken by the previous owner of Camellia Grove Nursery and supplemented by a further audit by Bill Parker of the Camellia Ark Project. This audit identified 20 rare cultivars which are proposed to be removed off site to be further cultivated and preserved by the Camellia Ark Project.

Due to the limited window of opportunity for the best success rate for transplantation of the Camellias, a tree works application was lodged with

Council, and Council approved the removal of the Camellia's as per the Camellia audit recommendations.

The most significant plantings associated with the site are being retained and protected on site, particularly the Yulan tree. These plantings are primarily associated with the former display gardens that front Mona Vale Road. Twenty two transplanted specimens will be returned to the site as part of the landscape works.

The historical value of the site should be recognised

In recognition of the history of site and its prominence in the area as a former nursery, the proposal includes a public art piece to be located on a feature wall at the Link Road frontage, with the final artwork being approved by Council's Heritage Advisor and Landscape Architect (**Condition 76**).

The most significant plantings associated with the site are being retained and protected on site, particularly the Yulan tree. These plantings are primarily associated with the former display gardens that front Mona Vale Road. Twenty two transplanted specimens will be returned to the site as part of the landscape works.

Setbacks are inadequate

Setbacks along Link Road and Mona Vale Road have been increased so that the corner proposes a 6 metres setback increasing to 8 metres along Mona Vale Road and 10.6 metres along Link Road. These setbacks allow for significant landscaped areas with deep soil zones around the boundaries and will address the harsh urban conditions for the site.

The increased setbacks in the amended proposal results in a development that provides a quality streetscape and landscaped setback zone, a well articulated building expression and architectural expression of the corner.

Inadequate acoustic amenity

Traffic noise from Mona Vale Road and Link Road is significant. The exposure of bedrooms to these noise sources has been addressed with double-glazing to bedrooms (the proposal does not include any enclosed balcony elements along these frontages). This is considered to be an acceptable outcome for this development type, where security is of particular importance.

Landscaping is inadequate and outdoor areas have poor amenity

The most significant plantings associated with the site are being retained and protected on site, particularly the Yulan tree. These plantings are primarily associated with the former display gardens that front Mona Vale Road. Twenty two transplanted specimens will be returned to the site as part of the landscape works.

There is a clear delineation of landscape between the dementia care gardens and communal areas open to all residents and their visitors. The major landscaped area located at the north-eastern corner now achieves a direct relationship to the internal spaces.

Traffic noise from Mona Vale Road and Link Road is significant. The focus of communal areas to the north and maximising northern outdoor terrace areas provides sunny outdoor spaces that maximise amenity.

Queuing to enter the site may cause congestion and will affect residences opposite

The vehicular entry and exit points to the site are not gated, and clear unobstructed access is provided. It is not anticipated that queuing will occur.

No evidence of high quality design

Council's Urban Design consultant has reviewed the proposal and finds it is an acceptable design outcome.

The proposed development will affect property values.

This is not a planning consideration pursuant to s79C of the Environmental Planning and Assessment Act 1979.

Traffic

The traffic engineer's report states that the traffic generation of the development is expected to be low and compared to the previous use of the site as a nursery, will result in a significant reduction in peak hour vehicle trips. This is accepted. Visitor trips to the facility are likely to be made outside of peak hours. Additionally, staff shift hours given in the traffic report are generally outside peak hours with the exception of the 7am shift.

The facility is calculated to generate approximately 20 vehicle trips per peak hour, that is, one movement every three minutes. The breakdown is usually of the order of 70% of movements in the peak direction, so say 14 vehicles in and 6 out in the morning and the opposite in the evening peak.

As R3 zoned land, the site is anticipated to achieve development that is a transition between high and low density in the area, and has the potential to be developed for uses such as townhouses, that generate more traffic than the proposed facility.

The Traffic Committee has recommended that *No Stopping* restrictions be installed approximately 10 metres either side of each access point. This will allow adequate sight distance for vehicles leaving the site **(Condition 7)**. Other traffic matters such as volumes in Killeaton Street, load limits and the

intersection at Link Road, are wider traffic network considerations and are not affected by and do not affect the proposed development.

The requirements identified by the Traffic Generating Development Advisory Committee in the minutes of the meeting 27 June 2013 have been met on the amended plans.

Amended plans dated 26 March 2014

Amended plans were received on 26 March 2013 in response to Council's correspondence dated 15 July 2013. The following amendments/additional information were received:

- plans modified to reduce the number of bedrooms from 108 to 98
- revised stormwater design
- increased setbacks to Mona Vale Road and Link Road
- additional partial fourth storey to corner of Mona Vale Road and Link Road
- revised building expression to Mona Vale Road and Link Road
- revised landscape design to preserve important Magnolia and Camellia plantings and to achieve better amenity to outdoor communal open space areas
- additional fence and signage detail

In accordance with the requirements of Part 5, Volume 3 of the Ku-ring-gai Local Centres Development Control Plan 2013, owners of surrounding properties were given notice of the amended plans. Submissions from the following were received:

1. *Mr G L & Mrs N M Watson, 5/95 Killeaton Street, St Ives*
2. *James Salatnay & Suzanne Spagnol, 18 Myrtle Place, St Ives*

These submissions raised the following additional issues:

Four storey building height

The site does not have any directly adjoining neighbours and has substantial separation distances from nearby flat buildings and low density residential dwellings. The siting and orientation of the building to address the Mona Vale Road and Link Road intersection ensures that adequate privacy to adjoining properties is achieved. The rooftop terraces are located to avoid direct overlooking of low density rear private open space gardens.

Council's Urban Design Consultant supports the additional building height, and the design overall as being an acceptable urban design outcome.

The objectives of the R3 Medium Density Residential zoning that applies to the land identify the need to provide a transition between low density residential housing and higher density development. The development of the

site for a residential aged care facility of three storeys with a partial fourth storey is considered to achieve this outcome. The fourth floor of the building is located to assist in defining the corner of the building addressing Mona Vale Road and Link Road and is located predominately along the part of the building that addresses Link Road with a return along the part of the building addressing Mona Vale Road. The proposed fourth storey element steps down from Link Road towards Killeaton Street in order to ensure an appropriate transition between five storey development in the R4 zoned land to the west and the two storey development in the R2 zoned land to the east.

The fourth storey of the building has an increased setback. The orientation of the fourth storey element along a north/south axis provides a setback of 23 metres from the Killeaton Street boundary and, when considered in conjunction with the Killeaton Street road reserve, provides a physical separation of approximately 43 metres from R2 zoned land and an appropriate transition to lower density zoned land.

The amendment of the design to include a partial fourth storey has also resulted in increasing the setbacks and reducing the bulk of the building at the Killeaton Street/Mona Vale Road intersection and the Killeaton Street/Link Road intersection, providing a shorter streetwall length.

Within Council

Urban Design

Council's Urban Design consultant commented on the proposal as follows:

Introduction

The subject site is located on the north of St Ives Village and comprises the old Camellia Grove nursery site. This is a triangular shaped site, with frontages to three major roads – Mona Vale Road, Link Road and Killeaton Street.

The site faces challenges of addressing noise sources, vehicle access, and both Council and RMS easements for drainage. However, it does enjoy a northerly aspect along its long axis addressing Killeaton Street (the quietest of the busy frontages) and the advantages that come from multiple street frontages of building separations from neighbouring sites, access opportunities and the possibility of activating streetscapes. Topography is near level with a cross fall of approximately 2.2m across the site, the high point at the south-east corner at RL 152.25 to the low point at RL 150.05 at the midpoint of the northern boundary at Killeaton Street. A natural depression consistent with the drainage easements run through the centre of the site and sees the most significant level change at approximately 1.2m. Total site area is 5539m².

The subject site benefits from being within 500m² of transport, shops and facilities of the vibrant St Ives Village Centre that is also accessible by near level footpaths.

Amendments have been submitted that have addressed all urban design issues raised during consideration of the application. This has resulted in a slight reduction to the number of beds proposed from the original scheme. Amendments for the residential aged care facility (RACF) comprise accommodation for 98 beds over predominantly 3 storeys with a component fourth storey and car parking for 28 vehicles (including ambulance bay). Beds and parking will be allocated as follows:

- *68 low and high care beds for frail and elderly*
- *30 specialist beds for dementia care*
- *25 basement car spaces*
- *3 at-grade car spaces*

The proposal is an Integrated Development due to the Water Management Works required to address drainage easement, infrastructure and access issues.

This report follows the submission of additional information to address urban design issues identified in consideration of the application.

Principle 1 - Context

Good design responds and contributes to its context. Responding to context involves identifying the desirable elements of a location's current character, or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies.

To the south of the site are recently constructed R4 zoned residential flat buildings (RFBs) while to the north are R2 zoned low density residential detached single and two-storey homes, and low density independent seniors living housing. To the east are the pre-school, primary school, church and Masada College High School. The site itself is zoned R3 Medium Density and forms an isolated island being bound on all three frontages by the major roads.

The site benefits from bus stops and good pedestrian access to the Village centre including signalled crossings at the intersection of Mona Vale and Link Roads.

The subject land was previously consolidated as the Camellia Grove Nursery so, unlike most other up-zoned sites in the area, it has a history of development across amalgamated lots albeit predominantly landscape with scattered small-scale buildings. Proposed change to the site lies with the scale, use, and building typology.

There is a single-storey weatherboard heritage item on the northern side of Killeaton Street. There is no impact to this item by the site

arrangement or scale of proposed development. This is in part due to existing thick vegetation obscuring the item from view of Killeaton Street, as well as proposed development being concentrated along the southern and eastern boundary axes (which also serves to maximise northern orientation).

Seniors Living aged care is supported in principle as it provides much needed specialist care close to the St Ives Village for the frail aged and particularly for dementia care residents. The site is exposed and highly visible along all approaches, which provides both opportunities and challenges. Each corner is a prominent element that needs to present a considered architectural response. As such, amendments have included design development of the corner treatments (particularly addressing Mona Vale and Link Roads at the south-east) that are supported. The architectural treatment of amended wall elements now attributes a hierarchy to their architectural treatment that acknowledges the differing visual and spatial relationships of each corner on approaching the site.

It is acknowledged that the level of visibility also exposes the site to challenges of achieving safety and security of residents particularly where dementia care is proposed; to ensuring high quality outdoor amenity is achieved with considered, engaged landscape areas; as well as ensuring adequate privacy and acoustic amenity is achieved. This has been achieved.

The proposal seeks to interpret the organisation and movement of the nursery. Our previous review had identified that this may have been at the expense of internal layout, landscape hierarchy specific to the requirements of dementia care and frail aged care, and the realities of challenges of privacy and acoustic impacts of the busy surrounding roads. Amendments have resolved all these matters.

The use of the site as aged housing is supported as being in keeping with the significantly changed surrounding urban context and providing a much-needed service to the community. Our original report identified that the building type appeared to have been problematic given the site constraints of drainage easement, shape of the land holding, and exposure of this island site. The urban design issues arising from this have been resolved through resolution of the drainage concerns.

The proposed development retains an established Magnolia and some established Camellia trees that are to be re-used on the site. This is supported in acknowledging the site's history.

Context is supported.

Principle 2 – Scale

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings. Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing transition proposed bulk and height needs to achieve the scale identified for the desired future character of the area.

Height is appropriate for the site and consistent with the R3 zoning.

The building type of the institutionalised care model being proposed usually results in footprints of significant depth. This has been addressed by placing the deepest component of building mass at the widest part of the site with the narrowing corners of the site holding the narrowest massing. The original urban design report had supported this rationale but identified deficiencies in the internal arrangements that had placed unnecessary functional pressure across the whole northern frontage to Killeaton Street and thus arrangements of building mass. Amendments have resolved this.

Building alignments have sought to articulate massing into smaller components that avoid long unbroken wall elements. This massing and articulation is supported.

Building over the easement appears to have resolved with the amended scheme but is a matter for RMS and Council's engineers. There are no urban design issues arising.

Setbacks along Link Road and Mona Vale Road have been increased so that the corner proposes a 6 metres setback increasing to 8 metres along Mona Vale Road and 10.6 metres along Link Road. This addresses all urban design deficiencies by enabling significant landscape areas with deep soil zones around the boundaries for large trees to flourish. This is important given the harsh urban conditions and will enable all rooms to have a positive landscape outlook.

The main entry and exit to the site during its time as the Camellia Grove nursery was in Killeaton Street with the Link Road and Mona Vale Road frontages being fenced which reinforced the isolation of the site from surrounding development. The scheme proposes no change to this approach with a single entry and exit zone along Killeaton Street (it is noted the loading dock is located along Link Road which is supported but will be subject to Council and RMS traffic requirements).

Generally, activated streetscapes are required for residential developments by providing multiple building entries along street frontages and internal planning that encourages passive surveillance. However, it is accepted that both the intended use as a frail aged and dementia residential aged care facility and the constraints of the limited road reservations make the decision to concentrate the zone of street

entries along the least busy frontage a rational and optimal decision in this development.

It had been previously noted that site arrangement also placed additional pressure on providing quality streetscape and setback zone landscaping and the architectural expression of the corner elements. Amendments have now addressed these through increased setbacks and resulting landscape zones and clearly articulated building expression.

It is noted that the proposal has a component of four storeys.

This is supported on urban design grounds. It is internal to the site, has no adverse impact to neighbouring residents and provides an appropriate transition to the development on R4 zoned land to the south.

The internal functions of the fourth level are generally for communal uses – lounge, library, café, hair and nail salon that achieve high levels of communal amenity to the future residents of the proposed development. It is also noted that the proposal has undergone significant amendments to address urban design deficiencies previously identified. Therefore, the additional height can be acceptable.

Principle 3 - Built form

Good design achieves an appropriate built form for a site and the buildings purpose, in terms of building alignments, proportions, building type and the manipulation of building elements. The built form is a response to both the regulatory controls and the neighbouring built fabric.

As previously commented, the institutionalised care model is reflected in the massing of the building type with a contemporary aesthetic expression of built form.

This type has both advantages and disadvantages. The main advantages on this site are that it acts as a noise barrier to the significant noise sources along the two busiest street frontages (Mona Vale and Link Roads) and secondly allows for operational efficiencies. The disadvantages are that the building depth is usually significant and can impact upon perceptions of bulk.

Proposed building depth for the two wings is appropriate and has been articulated to avoid a reading as an homogenous form through the use of deep recesses, clearly articulated building ends (addressing each site corner), and expression of the south-eastern corner as top in the hierarchy.

The previous scheme had essentially ‘turned its back’ on the prominent corners by accommodating bedrooms at these highly visible points. Amendments have now better matched the internal arrangements so

that the more public communal living areas now address the 'public' street corners. This has also had the added advantage of now enabling direct access to outdoor areas, clear visual links so important for dementia sufferers, and a pleasant outlook to gardens addressing previous deficiencies in amenity. The architectural expression of the amended scheme now better integrates the external expression with the internal functions and is acceptable.

Materials selection is expressed in the grouping of different built elements that achieves a rational composition of built form. The aesthetic is modern which is in context with the changing urban character. It is noted that colours and arrangement of materials would be in consultation with aged and dementia care specialists and therefore, should not be unduly commented on by urban design opinion other than to reinforce the need that the selection and arrangement needs to mediate between the surrounding and changed expression of built form with the needs of providing an optimal environment for the future residents.

The amendments have increased setbacks and are supported as enabling meaningful landscape zones, higher visual and outlook amenity, improved streetscape response, and higher internal amenity that has optimised the internal external spatial relationships. This has also enabled a rational, integrated expression of the built form that is acceptable.

Principle 4 – Density

Good design has a density appropriate to its site and its context, in terms of floor space yields (or numbers of units or residents).

The amendments have addressed all issues associated with density, and results in a satisfactory outcome.

Principle 5 - Resources, energy and water efficiency

Sustainability is integral to the design process. Aspects include layouts and built form, passive solar design principle soil zones for vegetation and re-use of water.

The site shape and easement constraints present challenges in achieving viable yield balanced with maximising passive solar design principles.

The proposal seeks to maximise access to sunlight through orientation of buildings around north. Provision of wintergardens and courtyards and communal spaces are all oriented around north, which is supported. Due to the site geometry, many bedrooms will not receive access to sunlight during the winter months. This is a consideration where residents may be bed-ridden and spending their time in their rooms.

Amendments to the setbacks and improvements to internal arrangements result in all rooms having positive outlooks and all residents having clear access to communal living spaces that optimise solar amenity.

The amendments to internal planning layout also result in engaged adjacent landscape spaces through a coordinated hierarchy of internal (communal living areas) and external functions (associated gardens and outdoor spaces) and are acceptable. This also addresses the challenges to optimising and controlling solar access.

Deep soil zones have been increased through amendments that appear to now provide adequate areas to support significant trees. This is important in achieving both a softened streetscape character than currently exists around the site, as well as providing both a visual screen between residents' bedrooms and the Link Road and Mona Vale Road street frontages and a positive outlook from all rooms.

Principle 6 - Landscape

Good design recognises that, together, landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

The amendments have successfully engaged with the built form. The need for defined landscape spaces of differing character has now been achieved so that the circular driveway and porte-cochere communicate a generous spatial entry to the site that appears consistent with the scale of landscape spaces. There is a clear expression of a spatial hierarchy of landscape engaged and coordinated with an hierarchical internal layout.

There is a clear delineation of landscape between the dementia care gardens and communal areas open to all residents and their visitors. The major landscaped area located at the north-eastern corner now achieves a direct relationship to the internal arrangement all of which are acceptable.

The re-use of existing Camellia trees on the site is acceptable, as is the retention of the small number of significant trees on the site.

Principle 7 - Amenity

Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts, and service areas, outlook and ease of access for all age groups and degrees of mobility.

Traffic noise from Mona Vale Road and Link Road is significant. The inherent challenges to the site are that the noise sources being along the

southern and eastern sides result in the unavoidable condition of bedrooms addressing both frontages. This has been addressed with double-glazing to bedrooms (the proposal does not include any enclosed balcony elements along these frontages).

The focus of communal areas to the north and maximising northern outdoor terrace areas provides sunny outdoor spaces that maximise amenity.

Natural ventilation is not proposed in this development given the requirement for a controlled internal environment necessary for aged and dementia care residents. Communal spaces are now located where options for natural light sources is available to maximise amenity for all residents, and where both solar access and an outlook to sunny landscape spaces has been achieved.

The internal planning locates communal areas to the northern sides, which is supported with amendments now achieving clear functional relationship with spaces that will enable flexibility and levels of privacy as necessary.

Other amendments to the internal layout at the main entry have addressed all functional conflicts between spaces and created positive sightlines that are all supported. This has relocated some of the previous options (such as hairdresser and café) as well as providing for a generous lounge and rooftop terrace area. These are very positive outcomes.

The communal living spaces now form visual terminations to the hallways of each wing which is supported. These will provide light and positive destinations.

Visual privacy to bedrooms has been largely resolved with the additional setbacks that will enable larger trees and landscape for screening.

Principle 8 - Safety and security

Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising activity on the streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

The site is challenging in its ability to activate all street frontages given the proposed use. It is accepted that passive activation will be required to engage the streetscape. This will be by provision of a coordinated plan of streetscape and setback landscaping where street trees cannot be planted due to minimal footpath reservations. Therefore, a solution for the drainage easement needs to achieve deep soil zones around the

site boundaries that will support established large trees over the long-term. This appears to have been resolved in the amended proposal.

The amended landscape plans locate dedicated and secure garden areas that address previously identified ambiguities of the original proposal.

Additionally, the amendments have achieved a main facility entry and front of house areas that are ordered and spatially legible adding to the sense of personal security.

The main entry is generous and visually clear, with amendments to internal layout now providing clear visual clues for wayfinding.

Principle 9 - Social dimensions

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability and access to social facilities. New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood, or, in the case of precincts undergoing transition, provide for the desired future community.

The provision of a much-needed frail aged and dementia care facility close to the St Ives Village Centre is commendable.

The amended proposal has communicated how these two components may be arranged and is supported as having addressed previously identified spatial and functional ambiguities.

Principle 10 - Aesthetics

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

The architectural aesthetic is contemporary and reflects the changing urban character, modern construction methods and material selections of this part of St Ives that has undergone significant transition from low density residential to high density residential.

Building elements are clearly arranged and expressed. The composition of materials has addressed previously identified issues regarding an unnecessarily busy façade expression.

The site will accommodate an institutional use albeit one that will be 'home' for its residents. The aesthetic of the amended scheme has

successfully negotiated the transition between the existing low density urban character to the north (through the articulation of building mass and the expression of building elements grouped into smaller components and focusing on corner expression that reduces the perception of bulk); the higher density character to the south (through the general building typology and scale); and created a character appropriate for the proposed use (through the use of materials composed to achieve an appropriate contemporary aesthetic response).

The proposal is considered to be acceptable on urban design grounds.

Heritage

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

Heritage status

The subject site is not identified as a heritage item and is not within a heritage conservation area. The site is opposite a heritage item at No 89 Killeaton Street, St Ives.

The relevant provisions (part 5.10(5) of the Ku-ring-gai Local Environmental Plan (Local Centres) requires the consent authority to assess the extent to which carrying out the proposed development would affect the heritage significance of any heritage item within the vicinity of the proposed development.

Heritage impact statement (HIS)

The submitted heritage impact statement is prepared by an experienced heritage consultant and makes the following conclusions:

"The proposal to develop a new Residential Aged Care facility (RACF) on the site, which will include three care units on three levels, with 98 beds in total is considered acceptable. The site which has been historically associated with the former Camellia Grove Nursery does not have any heritage significance as most of the original or early fabric on site has been considerably altered over the years. Also it is also not within any conservation area, and the only heritage item in the vicinity is a 20th century single-storeyed timber house with a reduced curtilage, which is not visible from the street due to thick foliage. The subject site is currently an unused, vacant lot of land boarded by major roads on three sides and has immense development potential which is seeks to realise through the proposed construction of the RACF, and it seeks to do so through the use of appropriate design and landscaping which considers the history of site and its prominence in the area as a former nursery. Overall the proposed development is a considered

and appropriate response to the history of the subject site and the emerging built character of the area.”

Comments

The site has been used as a plant nursery since 1939 and is reputedly associated with Professor Waterhouse, the former owner of “Eryldene” at Gordon, a property that is listed on the State Heritage Register and currently a house museum. It is believed the nursery site at St Ives was purchased for his son as a business venture and many Camellia varieties developed on the site. In some ways the site is a local landmark to the residents of St Ives and Ku-ring-gai. Currently, the site is vacant but was up until recently used as a plant nursery.

*The site itself was reviewed in detail by a heritage consultant employed by Council about 10 years ago – Tropman & Tropman. The review followed Council’s concerns about possible heritage values of the site. The report found that the site did not reach the threshold for listing as a heritage item but, due to the associations with Professor Wilkinson, a number of Camellias and other mature plantings on the site should be retained in any future development. The significant plantings are generally around the boundaries of the site which should not unduly restrict redevelopment. The buildings on the site were found to have minimal significance. Given the conclusions in the previous heritage report undertaken for Council, there is no heritage issue with demolition of the existing buildings on the site, however photographic recording should be undertaken as a condition in any future consent. **(Condition 11).***

The proposed development retains many of the established trees around the site which were considered to have some significance to the former plant nursery. Landscape Services will provide further comment on retention of significant plantings on the site.

The nearby heritage item is one of the few surviving farmhouses in St Ives, a building type that has not survived well with only a few remaining examples. The item was originally on a much larger parcel of land associated with an orchard and has been subdivided many times. It appears its original site extended to what is now Garrick Road and included Myrtle Place. Currently, the item has a reduced curtilage and setting and is generally heavily screened by trees from Killeaton Street. There appears to be no obvious historical connections between the development site and the heritage item other than its location being directly opposite and the former farming activities that took place in the area prior to residential subdivision. It is considered that the impact of the proposed development on the heritage item is minimal and acceptable and there appears to be an attempt to design the new development with its main building bulk facing Mona Vale Road and Link Road, with its larger setback and open space facing Killeaton Street, in the general vicinity of the heritage item.

Conclusions and recommendations

It is considered that the proposed development would have minor impacts on the nearby heritage item at 89 Killeaton Street and is considered acceptable from a heritage point of view.

*Demolition of the existing buildings on the site is acceptable provided photographic recording of the buildings and the site is undertaken before any works commence **(Condition 11)**.*

The proposed scheme retains many of the significant plantings on the site which are mainly located around its boundaries. Landscape services will provide further comment on this aspect of the application.

The proposal is acceptable on heritage grounds.

Engineering

Council's Development Engineer raised the following initial concerns regarding the proposal:

In summary, the application is not supported and the following comments are made:

Council stormwater drainage assets

- *construction of the building over Council's stormwater pipe and easement will not be approved*
- *the proposal does not comply with Council's DCP 47 "No structure shall be located within a 1.5 metre wide zone either side of an underground drainage system"*
- *the proposed building is over two pipes, one 525mm diameter (this is the RMS asset) and one 750mm diameter. No access for maintenance would be available for either pipe. Less than 1 metre of headroom would be available over the 750mm diameter pipe and none over the 525mm diameter pipe*
- *council will not accept responsibility for a system which it is not possible to maintain*
- *no allowance has been made for overflow from the low point in Mona Vale Road*

Other issues

- *the written agreement of Roads and Maritime Services to the release/ relocation of its drainage easement and stormwater pipes has not been provided*

- *the additional parking space required is to be provided on site (the required parking rate is one space per 10 beds (not one per 15), because the facility will not provide care only for persons with dementia)*
- *a Stage 2 environmental site assessment is required, for compliance with Council's Contaminated Land Policy*
- *plans are required showing works to kerb ramps and footpaths on both sides of Mona Vale Road required to provide a continuous path of travel to both bus stops, in accordance with Clause 26 of the SEPP (Seniors)*
- *waste management plan to include Section One, as there are buildings to be demolished and hazardous materials may be involved*
- *a geotechnical investigation comprising boreholes was specifically requested in the informal pre DA discussions, which were confirmed by email dated 31 January. The borelogs used for the preparation of the JK Geotechnics report should be provided*
- *specific recommendations for the protection of the retaining walls supporting Council and Roads and Maritime Services' property are to be included in the geotechnical report*
- *NSW Office of Water require a fully tanked basement structure be provided.*

The above concerns were addressed through the amendment of the proposal and supporting documentation. Council's Development Engineer provided the following further comment in response to the proposal as amended:

The submitted documentation indicates that the conflicts previously identified have been resolved.

Water management

For the proposed rainwater tanks, the Stormwater Management Report submitted with the DA states that re-use will be for staff toilets, and includes a MUSIC model which demonstrates that Council's water quality objectives will be achieved by the proposed treatment drain. Although the report contains abandoned proposals in regard to the trunk drainage works and superseded civil works plans and cannot be stamped, the rainwater re-use and water treatment elements have been included in the recommended conditions.

Drainage assets

It is recommended that a deferred commencement condition be imposed requiring the applicant to obtain Council and Roads and Maritime Services approval to release the easements traversing the site.

A covenant and restriction on the use of land over the overland flowpath and culvert will have to be created prior to occupation of the

development, to ensure that maintenance remains the responsibility of the property owner and not Council or RMS.

Footpath

Works to the footpaths external to the site are recommended in the Access Report by Funktion. The recommended conditions include a requirement that design drawings for these works be submitted to Council and approved prior to the issue of the Construction Certificate.

Waste management

*The Waste Management Plan has nominated a private contractor to collect waste from the completed development. The vehicles provided by this contractor can manoeuvre within the loading dock provided off Link Road. Conditions are recommended which require all vehicles to stand within the site for collection of waste, as well as evidence of a waste contract to be provided prior to occupation, so that there is no impact on traffic flows in Link Road (**Conditions 89, 90, 91**).*

Traffic

A submission has been received which raises traffic flows in Killeaton Street as an issue.

The traffic engineer's report states that the traffic generation of the development is expected to be low, and compared to the previous use of the site as a nursery, to result in a significant reduction in peak hour vehicle trips. This is accepted. Visitor trips to the facility are likely to be made outside of peak hours, staff shift hours given in the traffic report are generally outside peak hours with the exception of the 7am shift.

The facility is calculated to generate approximately 20 vehicle trips per peak hour, that is, one movement every three minutes. The breakdown is usually of the order of 70% of movements in the peak direction, so say 14 vehicles in and 6 out in the morning and the opposite in the evening peak.

The site is zoned R3, so has the potential to be developed for townhouses, which would generate more traffic than the proposed facility.

The Traffic Committee has recommended that No Stopping restrictions be installed approximately 10 metres either side of each access point. This will allow adequate sight distance for vehicles leaving the site. Other traffic matters such as volumes in Killeaton Street, load limits and the intersection at Link Road, are wider traffic network considerations and are not affected by and do not affect the proposed development.

Other Traffic Committee requirements identified in the minutes of the meeting 27 June 2013 have been met on the amended plans.

The proposal is now considered to be acceptable on engineering grounds.

Landscaping

Council's Landscape and Tree Assessment Officer raised numerous concerns with the original proposal relating to impacts on trees, landscaped area, the landscape plan and inadequate setbacks.

The above concerns have been addressed through the amendment of the proposal and supporting documentation. Council's Landscape and Tree Assessment Officer provided the following further comment in response to the proposal as amended:

Tree impacts

Tree removal associated with the development is significant. All existing street trees are proposed to be removed. The Killeaton Street trees are in poor health as they are over mature with poor structural form. The Link Road street trees have all been compromised due to regular pruning to accommodate an overhead wire, and have poor structural form. The Mona Vale Road trees are the most prominent but are an undesired species prone to suckering. All street trees are being replaced consistent with councils Public Domain Plan.

The submitted plans have satisfactorily addressed previous concerns regarding T37 Magnolia denudata (Yulan) which with standard tree protection measures should not be adversely impacted by the development proposal.

Landscape plan/tree replenishment

*Based upon the site area, a minimum nineteen (19) canopy trees in addition to understorey feature tree plantings are required by Ku-ring-gai Local Centres Development Control Plan. The development proposes a total of six canopy trees on site, which is inconsistent with Council policies and requirements and is insufficient to maintain and enhance the treed landscape character. There is scope for additional canopy trees to be accommodated on site to maintain and enhance the broader treed landscape character. Three small trees indicated on the landscape plan are to be amended to larger growing species where their locations allow for a taller growing species (**Condition 29**). The addition of these trees to the proposed street tree plantings will enhance the treed landscape character and satisfy Council's landscape objectives.*

The prominence within the landscape setting of T37 Magnolia denudata (Yulan) is maintained with the retention of the existing display garden. This is a good outcome as it is the most culturally significant planting on site.

*Where it is located adjacent to site boundaries, the proposed 2.5m high acoustic fence shall be screened with evergreen shrubs to reduce the visual impact of the fence **(Condition 29)**.*

*Other minor amendments to the landscape plan have been conditioned **(Condition 29)**. Subject to the above and recommended conditions, the landscape works for the site are considered to be acceptable.*

Stormwater plan

The proposed drainage works are satisfactory on landscape grounds.

Landscape area

SEPP Seniors for residential care facilities requires 25sqm of landscape area per residential care facility bed. The development proposes a total of 98 beds, resulting in a minimum requirement of 2450sqm of landscape area on site.

Landscape area is defined as:

“that part of the site area that is not occupied by any building and includes so much of that part that is used or to be used for rainwater tanks, swimming pools, or open-air recreation facilities, but does not include so much of that part as is used or to be used for driveways or parking areas.”

By the applicant’s calculations the proposed landscape area for the site is 2885sqm resulting in a landscape area of 29.5sqm per bed, which complies with the landscape area development standard.

Other issues and comments

Feature wall

*Further detail has been provided regarding the public art piece to be located within the Link Road site frontage. The assessing officer has included a condition to ensure the final artwork is approved by Council’s Heritage Advisor and Landscape Architect **(Condition 76)**. It is recommended the artwork be approved and installed prior to the issue of the Occupation Certificate, to ensure its completion.*

The application is now acceptable on landscape grounds.

Health

Council's Environmental Health Officer raised initial concerns relating to the adequacy of the proposed noise control measures and the size of the proposed food preparation area.

These concerns were addressed through the amendment of the proposal and supporting documentation. Council's Environmental Health Officer provided the following further comment in response to the proposal as amended:

The revised plans and accompanying reports have been reviewed and in this regard should the application be recommended for approval and conditions are recommended (Condition 27, 72, 73, 74, 75, 90, 92, 93).

Building

Council's Building Services Officer commented on the proposal as follows:

Class 9c building Type A construction

The proposed building design complies in general with the Building Code of Australia (BCA) requirements. Detail BCA assessment will be undertaken by the Principal Certifying Authority at the CC assessment stage (Condition 40).

Outside Council

Roads and Maritime Services (RMS)

The application was referred to the Roads and Maritime Services (RMS) of NSW seeking concurrence under the provisions of Section 138 (2) the Roads Act 1993. The RMS responded in the following manner:

The development is not an 'integrated development', as Council is both the consent authority for the development and the approval authority for Mona Vale Road (refer to Section 9 1(3) of the Environmental Planning and Assessment Act, 1979).

Additionally, the application was referred to the Roads and Maritime Services (RMS) of NSW for comment under the provisions of Section 104 of State Environmental Planning Policy (Infrastructure) 2007. RMS responded in the following manner:

Roads and Maritime Asset Section raises no objection to the proposed installation of a new piped drainage system around the subject site and

the inclusion of an overland flow through the site for 50 and 100 year ARI storm events, subject to the proposed drainage design complying with Council's drainage capacity requirement.

Asset Section also supports the proposed extinguishing of the existing Roads and Maritime Easement on the understanding the overland flow/culvert structure followed the natural flow path through the development site and would be constructed and maintained by the new owner. The specific details of the maintenance of the new overland flow/culvert would need to be an obligation on the owner. Consultation with Roads and Maritime Commercial Property Section is required on any compensation that may be owing with the extinguishing of an easement.

Roads and Maritime has reviewed the development application and raises no objection to the application subject to the following requirements:

- 1. A new piped drainage system shall be installed around the site and an overland flow through the site for 50 and 100 year ARI storm events shall be included.*
- 2. The new owner shall be responsible for the construction and maintenance of the new overland flow/culvert.*
- 3. Council should ensure that post development storm water discharge from the subject site into the Roads and Maritime drainage system does not exceed the pre-development discharge.*

Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to the Roads and Maritime for approval, prior to the commencement of any works:

Details should be forwarded to:

*The Sydney Asset Management
Roads and Maritime Services
P0 Box 973 Parramatta CBD 2124.*

A plan checking fee will be payable and a performance bond may be required before the Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766

- 4. There are no objections to the development on property grounds provided the proposed building and structures are clear of the road reserves (unlimited in height or depth) and associated Roads and Maritime easement;*

5. *The design and construction of the new driveway on Link Road shall be in accordance with RMS requirements. Details of these requirements should be obtained from RMS's Project Services Manager, Traffic Projects Section, Parramatta on 8849 2496.*
6. *The swept path of the longest vehicle entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a swept path plan shall be submitted to Council for approval, which illustrates that the proposed development complies with this requirement.*
7. *No service vehicles are to access the loading dock between 6am and 10am.*
8. *The required sight lines to pedestrians or other vehicles in or around the carpark or entrances are not to be compromised by landscaping, signage, fencing or display materials.*
9. *The proposed residential component of the development should be designed such that road traffic noise from Mona Vale Road is mitigated by durable materials to satisfy requirements under Clause 102(3) of State Environmental Planning Policy (Infrastructure) 2007. The Roads and Maritime's Environmental Noise Management Manual provides practical advice in selecting noise mitigation treatments.*
10. *A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Roads and Maritime for concurrence prior to the issue of a Construction Certificate.*
11. *All works associated with the proposed development shall be at no cost to the Roads and Maritime.*

In addition to the above, Roads and Maritime also provides the following comments to Council for its consideration in the determination of the application:

12. *The layout of the proposed car parking areas, loading docks and access driveway associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004 and AS 2890.2 - 2002 for heavy vehicle usage.*
13. *All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.*

The above comments received from RMS have been considered by Council's Development Engineer and appropriate conditions are recommended in response (**Conditions 6, 7, 12, 13, 34, 35, 85, 86**).

NSW Office of Water (NOW)

The application was referred to the NSW Office of Water (NOW) seeking concurrence under the provisions of the *Water Management Act 2000*. The Office of Water responded in the following manner:

The Office of Water has reviewed documents for the above development application and considers that, for the purposes of the Water Management Act 2000 (WM Act), a controlled activity approval is not required and no further assessment by this agency is necessary for one of the following reasons.

*The proposed activity is **not occurring on waterfront land** (which includes (i) the bed of any river together with any land within 40 metres inland of the highest bank of the river, or (ii) the bed of any lake, together with any land within 40 metres of the shore of the lake, or (iii) the bed of any estuary, together with any land within 40 metres inland of the mean high water mark of the estuary).*

NSW Police

The application was referred to the NSW Police for comment under the provisions of Section 104 of State Environmental Planning Policy (Infrastructure) 2007. No response was received, however the matter was considered at the meeting of the Traffic Generating Developments Committee on 27 June 2013, which include representatives of the NSW Police, and no concerns were expressed.

STATUTORY PROVISIONS

The proposal is "Local Development" under Part 4 of the EP and A Act, 1979 and requires development consent pursuant to SEPP (Housing for Seniors or People with a Disability) 2004.

State Environmental Planning Policy (Infrastructure) 2007

The property has a frontage to two classified roads, being Link Road and Mona Vale Road, and as such consideration is required pursuant to Division 17 Clause 101 and 102 of the SEPP. Clause 101 of the SEPP states:

101 Development with frontage to classified road

(1) The objectives of this clause are:

(a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and

(b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.

(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

(a) where practicable, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:

(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

The site is bounded by Mona Vale Road, Link Road and Killeaton Street. The vehicular access arrangement for the site is via Killeaton Street, with the exception of the loading dock which is accessed from Link Road. The proposal is supported by a traffic report. The proposed vehicular access from Killeaton Street will minimise potential impacts to the safety and efficiency of Link Road and Mona Vale Road.

The proposal is supported by an acoustic report that addresses road traffic noise. The siting of the building will shield open landscaped garden spaces from road noise. The acoustic report indicates that the building construction and materials will allow for appropriate acoustic amenity to be achieved for the residents.

Clause 102 of the SEPP states:

102 Impact of road noise or vibration on non-road development

(1) This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RTA) and that the consent authority considers is likely to be adversely affected by road noise or vibration:

- (a) a building for residential use,
- (b) a place of public worship,
- (c) a hospital,
- (d) an educational establishment or child care centre.

(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.

(3) If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

(4) In this clause, **freeway**, **tollway** and **transitway** have the same meanings as they have in the Roads Act 1993.

To address the above requirements, the applicant has submitted an acoustic assessment report. The report includes recommended construction techniques and states that the proposal will achieve the above mentioned noise guideline requirements, subject to those construction techniques. The proposal is therefore considered to be satisfactory in this respect.

104 Traffic-generating development

(1) This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves:

- (a) new premises of the relevant size or capacity, or
- (b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.

(2) In this clause, **relevant size or capacity** means:

- (a) in relation to development on a site that has direct vehicular or pedestrian access to any road—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or
- (b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection—the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.

(3) Before determining a development application for development to which this clause applies, the consent authority must:

(a) give written notice of the application to the RTA within 7 days after the application is made, and

(b) take into consideration:

(i) any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and

(ii) the accessibility of the site concerned, including:

(A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and

(B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and

(iii) any potential traffic safety, road congestion or parking implications of the development.

(4) The consent authority must give the RTA a copy of the determination of the application within 7 days after the determination is made.

The proposal was considered to be traffic generating development as an aged care facility with greater than 100 beds on a site with an access point to a road that is within 90 metres of the intersection with a classified road.

The application was referred to Roads and Maritime Services (RMS) under the provisions of Clause 104, as traffic generating development. The RMS support the application. The comments received from RMS have been considered by Council's Development Engineer, and appropriate conditions are recommended (**Conditions 6, 7, 12, 13, 34, 35, 85, 86**).

The application was referred to the Traffic Generating Developments Committee for review. The Committee agreed that the traffic generation of the proposal would be relatively low. The recommendations of the Committee are as follows:

There are some geometric design elements in the carpark and access points that would need to be redesigned, these could be conditioned:

- 1. No Stopping restrictions would need to be installed on the southern side of Killeaton Street for approximately 10m either side of each access point, at the cost of the applicant;*
- 2. The perimeter wall/fence at the access point to the basement car park would need to be modified to maintain the sight triangle for pedestrians;*
- 3. A section of the service area has grades that are greater than 4%, which does not comply with Clause 4.2 of AS2890.2;*

4. *Manoeuvring clearances to the sliding gate and loading dock appear to be constrained;*
5. *The quantity of bicycle parking spaces for staff and visitors is inadequate;*
6. *Staff amenities should be expanded to include showers, lockers and suitable changing areas, to encourage cycling;*
7. *The two access points off Killeaton Street should be widened to accommodate the swept path for the Toyota Coaster (mini bus);*
8. *Applications for a Works Zone should be made for the southern side of Killeaton Street, on the frontage of the site.*

The following items require addressing or additional information:

1. *There is a shortfall of 1 car space, which has not been justified in the traffic report, and should be provided on site;*
2. *Clarification of the height of the service bay is required;*
3. *There are concerns regarding the operation of the sliding gate on Link Road, and clarification is required;*
4. *The height of the fence and landscaping in the north-eastern corner of the site should be modified to maximise visibility to pedestrians around the corner*

The above recommendations have been considered by Council's Development Engineer and addressed through the amendment of the proposal and supporting documentation. Appropriate conditions have also been recommended **(Conditions 6, 7, 12, 13, 34, 35, 85, 86)**.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated. The subject site has a history as a nursery. A Stage 1 preliminary environmental site assessment report was submitted with the application, to address likely contamination as a result of the previous use.

The Stage 1 Preliminary Environmental Site Assessment report states that:

“...the site can be made suitable for the proposed development, provided that a Stage 2 Environmental Site Assessment is completed (including soil; and groundwater sampling)...”

Council's Contaminated Land Policy requires the Stage 2 investigation to be carried out before the application can be determined. A Stage 2 environmental site assessment was submitted as part of amended documentation. The Stage 2 Environmental Site Assessment report identifies, in particular, arsenic and lead in fill on the site and arsenic in the natural soil profile at BH114 and individual metals and Organochlorine pesticides in the groundwater sample obtained at the down-gradient section of the site (BH101). The report concludes:

“...Based on the scope of work undertaken, EIS consider that the site can be made suitable for the proposed development provided a remedial Action Plan (RAP) is prepared for the site to in order to outline the remediation and validation works.”

Compliance with the recommendations of the Stage 2 Environmental Site Assessment report, including a Remediation Action Plan is required by a condition of consent **(Condition 28)**.

Further, it is noted that the areas of the site that require removal of fill and remediation works is outside of those landscape areas (Yulan tree and Camellia display gardens) marked for retention under the landscape plan. The supervision by a qualified arborist of any remediation excavation works within 7m of the Yulan tree (Tree number 37) is required by a condition of consent **(Condition 28)**.

Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River

SREP 20 applies to land within the catchment of the Hawkesbury Nepean River. The general aim of the plan is to ensure that development and future land uses within the catchment are considered in a regional context. The Plan includes strategies for the assessment of development in relation to water quality and quantity, scenic quality, aquaculture, recreation and tourism. The proposed development is considered to achieve the relevant aims under this policy.

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

The Aims of the policy are contained within Clause 2 as follows:

- (1) This policy aims to encourage the provision of housing (including residential care facilities) that will:*
 - (a) Increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
 - (b) Make efficient use of existing infrastructure and services, and*
 - (c) Be of good design.*
- (2) These aims will be achieved by:*
 - (a) Setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this policy, and*

- (b) *Setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form, and*
- (c) *Ensuring that applicants provide support services for seniors or people with a disability for developments on land zoned primarily for urban purposes.*

Clause 5 (3) of the SEPP stipulates that, where inconsistencies occur with another Environmental Planning Instrument (EPI), the SEPP prevails to the extent of the inconsistency. It is noted that the subject development type would otherwise be a prohibited use within the R3 – Medium Density Residential zoning of Ku-ring-gai Local Environmental Plan (Local Centres) 2013, however, is permitted by virtue of Clause 4 “Land to which this policy applies” within SEPP (HSPD) 2004. The proposal is therefore a permitted use within the zone.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 Compliance Table.

| CLAUSE | PROPOSED | COMPLIES |
|---|--|-----------------|
| 4 - Land to which Policy applies | Residential R3 – Medium Density Residential | YES |
| 11 - Seniors housing Definitions and categories: Residential care facilities | Proposal meets the definition of residential care facility | YES |
| 18 - Restrictions on occupation of seniors housing | Yes -subject to condition of consent and covenant on title deed. (Conditions 22 and 22) | YES |
| 26 - Location and access to facilities | The site is within 400 metres of bus stops on either side of Mona Vale Road. The stops are serviced by Forest Coachlines, and provide access to and from Gordon, St Ives and Mona Vale. 1:14 gradients are achievable on public domain, as indicated in the assessability report. | YES |
| 28 - Water and Sewer | The site has access to both mains water and sewer | YES |
| 30 - Site analysis | A site analysis plan has been submitted in accordance with the SEPP. | YES |
| 32 - Urban Design Guidelines | A review of the plans has revealed that the proposal complies with the Urban Design Guidelines | YES |

| CLAUSE | PROPOSED | COMPLIES |
|--|---|-------------------|
| <p>33 - Neighbourhood amenity and streetscape</p> <p>maintain reasonable neighbourhood amenity and appropriate residential character</p> <p>retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan.</p> <p>retain, wherever reasonable, major existing trees</p> <p>be designed so that the front building of the development is set back in sympathy, but not necessarily the same as, the existing building line</p> | <p>The proposal will have setbacks that allow for the retention of visually and culturally significant vegetation and allow for meaningful landscape zones, higher visual and outlook amenity, improved streetscape response, and higher internal amenity that optimises the internal and external spatial relationships. This has also enabled a rational, integrated expression of the built form.</p> <p>The proposal will result in satisfactory impacts on adjoining properties and is not located within a heritage conservation area. A heritage impact statement has been provided.</p> | <p>YES</p> |
| <p>34 - Visual and acoustic privacy</p> | <p>The site is an “island” that is bounded on all sides by road frontages. As such, the site does not have any directly adjoining neighbours and maintains substantial separation from nearby flat buildings and low density residential dwellings. The siting and orientation of the building to address the Mona Vale Rd and Link Rd street corner ensures that ensures adequate privacy to adjoining properties is achieved. The rooftop terraces are located to avoid direct overlooking of low density rear private open space gardens.</p> | <p>YES</p> |

| CLAUSE | PROPOSED | COMPLIES |
|---|---|------------|
| | <p>Traffic noise from Mona Vale Road and Link Road is significant. The exposure of bedrooms to these noise sources has been addressed with double-glazing to bedrooms (the proposal does not include any enclosed balcony elements along these frontages).</p> <p>Communal areas within and external to the building are located to the northern sides, allowing the best opportunity for privacy and sunny outdoor spaces that maximise amenity.</p> <p>Visual privacy to bedrooms has been largely resolved with the additional setbacks that will enable larger trees and landscape for screening.</p> | |
| 35 - Solar access and design for climate | <p>The development provides does not impact on neighbouring solar access.</p> <p>Communal areas within and external to the building are located to the northern sides, allowing the best opportunity for privacy and sunny outdoor spaces that maximise amenity.</p> | YES |
| 36 - Stormwater | Council's Engineer has determined that stormwater disposal is satisfactory | YES |
| 37 - Crime prevention | <p>The development provides a main facility entry and front of house areas that provide the required security for this development type.</p> <p>The main entry is generous, and visually clear, administration areas are appropriately located at the entry. There are clear visual clues for wayfinding.</p> <p>The site is fenced, and includes dedicated secure garden areas.</p> | YES |
| 38 - Accessibility | An access report has been submitted detailing compliance. | YES |

| CLAUSE | PROPOSED | COMPLIES |
|---|--|-----------------|
| 39 - Waste management | Council's Engineer has determined waste collection as satisfactory | YES |
| 40 - Development standards | | |
| Site size – minimum 1000m² | 5539m ² | YES |
| Site frontage – minimum 20m when measured at the building line | Mona Vale – 102.3m Link Road – 85.4m Killeaton Street – 124.4m | YES |
| Height - Maximum 8 metres (ground to ceiling) | 14.11m | NO |
| Maximum 2 storeys | The majority of the proposal has a height of 3 storeys, with a partial (maximum) 4 storey component. | NO |
| Maximum 1 storey in rear 25% of site | The site does not have a clear "rear", as it is a triangular site with three frontages, and is viewed in the round. Acknowledging Killeaton Street as being the interface with lower density development, the 25% of the site area along this boundary does not include development that exceeds one storey in height. | YES |
| Part 7 | Development standards that cannot be used as grounds to refuse consent | |
| 48 - Standards that cannot be used to refuse development consent for residential care facilities | | |
| Should the building be 8m or less in height. | 14.11m | NO |
| Should the density and scale as FSR be 1:1 or less | 1:1 | YES |
| Should 25m² landscaped area per bed be provided (minimum). | 29.5m ² | YES |

| CLAUSE | PROPOSED | COMPLIES |
|--|--------------------|----------|
| Parking where 1 per 10 beds, and 1 per 2 staff, and 1 ambulance space | 29 spaces proposed | YES |
| 55 – Residential care facilities to have fire sprinkler systems | Yes | YES |

Clause 40 – Development standards – minimum sizes and building height

Clause 40(4) of the SEPP stipulates maximum height of buildings and maximum storeys as follows:

40 Development standards—minimum sizes and building height

(1) General

A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.

(2) Site size

The size of the site must be at least 1,000 square metres.

(3) Site frontage

The site frontage must be at least 20 metres wide measured at the building line.

(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.

(5) Development applications to which clause does not apply
Subclauses (2), (3) and (4) (c) do not apply to a development application made by any of the following:

(a) the Department of Housing,

(b) any other social housing provider.

The site is zoned R3 Medium Density Residential. Residential Flat Buildings are not permissible development on the site under the provisions of Ku-ring-gai Local Environmental Plan (Local Centres) 2012. As such, the provisions of Clause 40(4) limit the height of buildings to 8 metres and two storeys. The proposal has a prevailing building height of 11.5 metres and three storeys for the majority of the building, with a 14.11 metres maximum building height to a fourth storey corner element of the building.

The site is an “island” that is bounded on all sides by road frontages. As such, the site does not have any directly adjoining neighbours and as such has substantial separation distances from nearby flat buildings and low density residential dwellings. The siting and orientation of the building to address the Mona Vale Road and Link Road intersection ensures that adequate privacy to adjoining properties is achieved. The rooftop terraces are located to avoid direct overlooking of low density rear private open space gardens.

Council’s Urban Design Consultant addresses building height in the following manner:

... It is noted that the proposal has a component of four storeys.

This is acceptable on urban design grounds. It is internal to the site, has no adverse impact to neighbouring residents and provides an appropriate transition to the R4 development to the south.

The internal functions of the fourth level are generally for communal uses – lounge, library, café, hair and nail salon that achieve high levels of communal amenity to the future residents of the proposed development. It is also noted that the proposal has undergone significant amendments to address urban design deficiencies previously identified. Therefore, the additional height is acceptable.

... Seniors Living aged care is supported in principle as it provides much needed specialist care close to the St Ives Village for the frail aged and particularly for dementia care residents. The site is exposed and highly visible along all approaches, which provides both opportunities and challenges. Each corner is a prominent element that needs to present a considered architectural response. As such, amendments have included design development of the corner treatments (particularly

addressing Mona Vale and Link Roads at the south-east) that are supported. The architectural treatment of amended wall elements now attributes a hierarchy to their architectural treatment that acknowledges the differing visual and spatial relationships of each corner on approaching the site.

... The use of the site as aged housing is in keeping with the significantly changed surrounding urban context and providing a much-needed service to the community. Our original report identified that the building type appeared to have been problematic given the site constraints of drainage easement, shape of the land holding, and exposure of this island site. The urban design issues arising from this have been resolved through resolution of the drainage concerns.

The objectives of the R3 Medium Density Residential zoning that applies to the land identify the need to provide a transition between low density residential housing and higher forms of development. In this respect, the development of the site for a residential aged care facility of three storeys with a partial fourth storey is considered to achieve this outcome. The fourth floor of the building is located to assist in defining the corner of the building addressing Mona Vale Road and Link Road and as such is located predominately along the part of the building that addresses Link Road with a return along the part of the building addressing Mona Vale Road. The proposed fourth storey element steps down from Link Road towards Killeaton Street in order to ensure an appropriate transition between five storey development in the R4 zoned land to the west and the two storey development in the R2 zoned land to the east.

The fourth storey of the building has an increased setback. The orientation of the fourth storey element along a north/south axis provides a setback of 23 metres from the Killeaton Street boundary, and when considered in conjunction with the Killeaton Street road reserve, providing a physical separation of approximately 43 metres from R2 zoned land and an appropriate transition to lower density zoned land.

The amendment of the design to include a partial fourth storey has also resulted in increasing the setbacks and reducing the bulk of the building at the Killeaton Street/Mona Vale Road intersection and the Killeaton Street/Link Road intersection, providing a shorter streetwall length.

Given the location of the site at the edge of the St Ives Town Centre and the high visual prominence of the site as an “island” at the intersection of two busy arterial roads, it is appropriate the development of the site should constitute the form, scale and bulk and urban design integrity of a focal 'landmark' entry point to St Ives.

The proposal is predominantly compliant with the provisions of the SEPP. Areas of non-compliance are considered acceptable for this development type when considered in the context of the site.

The variation to the height of the building and the number of storeys of Clause 40(4) of SEPP HSPD is supported by a SEPP 1 – Objection to Development Standards (below).

State Environmental Planning Policy No. 1 – Development Standards

SEPP 1 provides flexibility in applying development standards and enables a consent authority to vary a standard where strict compliance would be unnecessary, unreasonable or tend to hinder the objectives of the Environmental Planning & Assessment Act, 1979. Where there is a variation to a development standard, the application must be accompanied by a SEPP 1 Objection.

The application seeks to vary the development standard for building height and number of storeys under Clause 40(4) of SEPP (Housing for Seniors and People with a Disability) 2004.

- **Building height and number of storeys**

The site is zoned R3 Medium Density Residential. Residential Flat Buildings are not permissible development on the site under the provisions of Ku-ring-gai Local Environmental Plan (Local Centres) 2012. As such, the provisions of Clause 40(4) of SEPP (Housing for Seniors and People with a Disability) 2004 limit the height of buildings to 8metres and two storeys. The proposal has a prevailing building height of 11.5metres and three storeys for the majority of the building, with a 14.11m maximum building height to a four storey corner element of the building. The applicant has submitted a SEPP 1 Objection seeking variation to the development standard. The following assessment has been undertaken.

whether the planning control in question is a development standard

Clause 40(4) of SEPP (Housing for Seniors and People with a Disability) 2004 limits the height of buildings to 8 metres and two storeys in zones on sites where Residential Flat Buildings are not permissible development. The maximum building height requirement sets a standard in relation to the carrying out of development, and is a development standard.

the underlying objective or purpose behind the standard

The SEPP (Housing for Seniors and People with a Disability) 2004 does not contain any objectives that specifically relate to the development standard for maximum building height and storeys.

The General objectives that relate to all the development standards under the SEPP are outlined in clause 14, which states that:

The objective of this Chapter is to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile

and active as well as those who are frail, and other people with a disability regardless of their age.

One of the specific aims of the SEPP also is relevant and states that the policy seeks to achieve the following:-

2(2)(b) setting out design principles that should be followed to achieve build form that responds to the characteristics of the site and form.

The development complies with the site accessibility requirement of SEPP (Housing for Seniors and People with a Disability) 2004 and has been designed in accordance with the design principles contained within the SEPP. The development provides for both standard serviced residential aged care beds, along with dementia care facilities. This is consistent with the objectives outlined in clause 14.

whether compliance with the development standard is consistent with the aims of the policy and, in particular, whether compliance with the development standard hinders the attainment of the objectives specified under section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979

The aims and objectives of SEPP 1 are:

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.

The objectives specified under section 5(a)(i) and (ii) of the *Environmental Planning and Assessment Act 1979* are:

- (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,*

The proposed development is consistent with the objects of the Act and represents an orderly and economic use of the land.

whether compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

The applicant submits that compliance with the development standard is unreasonable and unnecessary for the following reasons:

“The subject site is an unusual and difficult configuration, being triangular, with two major roads forming two boundaries to the south-east and south-west, and a local street to the north. The site was historically market gardens, and for more than 40 years operated as a Camellia nursery, with camellia specimens grown and sold from the property.

The subject site is an isolated parcel and because of the distance between the proposed development and the nearest development on the northern side of Killeaton Street, there is little potential for overshadowing or oversighting. The 3 storey height limit which applies to the land in the Local Centres LEP was determined for this reason. The objectives of the development standards in relation to building height, siting, design, bulk, scale, materials, and character of the proposed building is compatible with medium density residential development and seniors developments in the near vicinity.

The separation distances between the proposed development and nearby developments, and the orientation of the windows of bedrooms, ensures that nearby residential properties will not be adversely affected in terms of overshadowing, loss of visual or aural privacy or views. The proposed development is compliant with building setbacks. The proposed development exceeds the guidelines for landscaped area per bed.

The proposed elevations are well articulated to reduce visual bulk, and mature trees will be retained on the perimeter of the site and further embellished with new plantings, further softening the scale and bulk of the building.

The building sits at the ‘gateway’ to St Ives and is located within the boundary of the St Ives Town Centre. The architect has designed the building with the services core forming the apex of the proposed development at the road junction. Through careful siting and design, the residential wings address Killeaton Street and enjoy a northerly aspect, ensuring the residents enjoy residential amenity, privacy, sunlight and views, despite the location of the facility.

For these reasons, and as further detailed in this report, it is unnecessary and unreasonable for the building, specifically the four storey corner element, to maintain compliance with Height of Building standard.”

The site has multiple street frontages, is highly visible and faces challenges of addressing noise sources, vehicle access and both Council and RMS easements for drainage. Topography is near level, with a cross fall of approximately 2.2 metres across the site, the high point at the south-east corner at RL152.25 to the low point at RL150.05 at the midpoint of the northern boundary at Killeaton Street. A natural depression consistent with the location of the existing drainage easements runs through the centre of the site with the most significant level change at approximately 1.2 metres. The

design has included design development of the corner treatments (particularly addressing Mona Vale and Link Roads at the south-east). The architectural treatment of amended wall elements now attributes a hierarchy to their architectural treatment that acknowledges the differing visual and spatial relationships of each corner on approaching the site. Setbacks along Link Road and Mona Vale Road have been increased so that the corner features a 6 metres setback increasing to 8 metres along Mona Vale Road and 10.6 metres along Link Road.

The proposed development is considered to be in keeping with the significantly changed surrounding urban context and provides a much-needed service to the community. As stated above, traffic noise from Mona Vale Road and Link Road is significant. The development addresses this constraint by designing the built form to shield the communal areas to the north and maximising northern outdoor terrace areas. In doing so, the design response is considered to also achieve a development which represents an appropriate transition between the character of St Ives Local Centre and the medium density to low residential density to the north.

The proposal complies with the underlying objectives of the standard, therefore compliance is unnecessary and unreasonable in the circumstances of the case.

whether the objection is well founded

The SEPP No 1 objection is considered to be well founded in that it accurately cites the development standard to be varied and it also provides sufficient justification for varying this development standard in this case for the reasons outlined above.

The proposed development is in keeping with the bulk and scale of the immediate locality; in particular, the residential apartments to the south, while representing a transition in height from five and six storey apartments to the south, to the two storey residential developments to the north. The proposed development will maintain an acceptable level of visual and aural privacy for residents and those of nearby properties.

whether the proposed variation is of regional or state significance

The context and situation in which the departure from the development standard is proposed is not considered to have any regional or state significance. It is isolated to this site and the proposed development and departure would not hinder the application of the development standard for building height elsewhere in the Ku-ring-gai Local Government area. As stated above, the design response is considered to achieve a development which represents an appropriate transition between the character of St Ives Local Centre and the medium density to low residential density to the north.

The public benefit in maintaining the planning controls under the environmental planning instrument

The development standard for the building height within the site is consistent with the development outcomes promoted by SEPP (Housing for Seniors and People with a Disability) 2004. There is public benefit in maintaining this control but, in this instance, requiring compliance would not be considered reasonable. The provision of frail aged and dementia care is supported as such is a much-needed facility close to the St Ives Village Centre.

The proposed development will provide a modern, well designed seniors' residence and health services in a location which is well serviced by public transport, and close to shops and other services. The design will result in an efficient and sustainable building which will not cause material impacts to adjacent residential development.

Ku-ring-gai Local Environmental Plan (Local Centres) 2012

Zoning and permissibility:

The site is zoned R3 - Medium Density Residential. As noted previously within this report, the proposal is a permitted land use by virtue of Clause 5 (3) of SEPP (Housing for Seniors or People with a Disability) 2004.

Residential zone objectives:

- *to provide for the housing needs of the community within a medium density residential environment*
- *to provide a variety of housing types within a medium density residential environment*
- *to enable other land uses that provide facilities or services to meet the day to day needs of residents*
- *to provide a transition between low density residential housing and higher density forms of development*

The proposed development is considered to meet the zone objectives as it is facilitating a community need to provide housing for seniors or people with a disability and as the built form is considered to be characteristic of surrounding development within Mona Vale and Link Roads and St Ives Local Centre generally.

Development standards:

| Development standard | Proposed | Complies |
|----------------------------------|-----------------|-----------------|
| Building height: 11.5m | 14.11m | NO |
| Floor space ratio: 0.8 :1 | 1:1 | NO |

Clause 4.3 – Height of Buildings

The proposal exceeds the maximum specified building height for the R3 – Medium Density Residential zoning. Clause 5(3) of SEPP HSPD stipulates that where any inconsistencies occur between Environmental Planning Instruments the SEPP will prevail. The SEPP further indicates that a proposal cannot be refused in relation to floor space should the development not exceed 8 metres in height. The development exceeds the height provisions of the SEPP. Refer to the relevant discussion under SEPP HSPD, and SEPP 1.

Clause 4.4- Floor Space Ratio

The proposal exceeds the maximum specified floor space ratio for the R3 – Medium Density Residential zoning. Clause 5(3) of SEPP HSPD stipulates that where any inconsistencies occur between Environmental Planning Instruments the SEPP will prevail. The SEPP further indicates that a proposal cannot be refused in relation to floor space should the development not exceed 1:1. The proposal meets the floor space ratio provisions of the SEPP.

Clause 5.9 – Preservation of trees or vegetation

Council's Landscape and Tree Assessment Officer has indicated that the majority of trees and shrubs on the site will be removed/transplanted.

At Council's request, the applicant has identified all existing Camellia, Azalea and Magnolia species on site, due to the likelihood that there were species and cultivars worthy of relocation, transplanting and retention.

The inventory of cultivars was undertaken by the previous owner of Camellia Grove Nursery and supplemented by a further audit by Bill Parker of the Camellia Ark Project. This audit identified 20 rare cultivars which are proposed to be removed off site to be further cultivated and preserved by the Camellia Ark Project.

Due to the limited window of opportunity for the best success rate for transplantation of the Camellias, a tree works application was lodged with Council which approved the removal of the Camellia's as per the Camellia audit recommendations.

The most significant plantings associated with the site are being retained and protected on site, particularly the Yulan tree. These plantings are primarily associated with the former display gardens that front Mona Vale Road. Twenty two transplanted specimens will be returned to the site as part of the landscape works.

The transplanting and relocation of the Camellia's is an excellent landscape outcome, particularly as the majority are not protected by Council's Tree Preservation Order and could have been removed at any time.

No objection is raised to the proposed tree removal and it is noted the proposed tree replenishment has been deemed satisfactory.

Clause 6.1 – Earthworks

The proposed development will not restrict the existing or future use of the site, adversely impact neighbouring amenity, nor the quality of the water table or disturb any known relics. The proposal is considered to be satisfactory in this respect.

6.2 Stormwater and water sensitive urban design

Council's Development Engineer is satisfied that the proposed development has been designed to control stormwater run-off as per Council's requirements, subject to conditions.

Ku-ring-gai Local Centres Development Control Plan

There are no specific DCP controls that apply to the subject development type by virtue of it not being a permitted use within the R3 - Medium Density Residential zoning.

Part 5 –Notification

The application has been notified in accordance with the requirements of the DCP. All submissions have been considered in the above assessment.

Section 94 Development Contributions Plan 2010

The development consists of 98 non-private dwellings. The development attracts a section 94 contribution of **\$1,535,859.60** which is required to be paid prior to the issue of the Construction Certificate (**Condition 38**).

Development Contributions Plan 2010

| <i>Infrastructure Type</i> | <i>Total</i> |
|---|------------------------------|
| <i>LGA Wide Local Recreational & Cultural</i> | <i>\$111,273.07</i> |
| <i>St Ives TC Local Parks & Sporting Facilities</i> | <i>\$903,628.80</i> |
| <i>St Ives TC Townscape Transport & Pedestrian Facilities</i> | <i>\$520,957.73</i> |
| <i>Development Contributions Total</i> | <i>\$1,535,859.60</i> |

LIKELY IMPACTS

As indicated in the above assessment, the proposed development is assessed as having an acceptable environmental impact upon the surrounding natural, social, economic and built environments.

SUITABILITY OF THE SITE

The site is considered to be suitable for the proposed development.

ANY SUBMISSIONS

The submissions received have been considered in the assessment of this application.

PUBLIC INTEREST

Approval of the application is considered to be in the public interest.

CONCLUSION

Having regard to the provisions of section 79C of the Environmental Planning and Assessment Act 1979, the proposed development is considered to be satisfactory. Therefore, it is recommended that the application be approved.

RECOMMENDATION

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

THAT the Sydney West Joint Regional Planning Panel, as the consent authority, is of the opinion that the objection under *State Environmental Planning Policy No. 1 – Development Standards* to clause 40(4) of the State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 is well founded. The Sydney West Joint Regional Planning Panel is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case.

AND

THAT the Sydney West Joint Regional Planning Panel, as the consent authority, grant development consent to DA0102/13 for Demolition of existing structures and construction of a 98 bed residential aged care facility, basement parking and associated works on land at 238 – 240 Mona Vale Road, St Ives for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

SCHEDULE A - Deferred commencement condition:

Evidence required to satisfy the following condition must be submitted to Council within twelve (12) months of the date of this consent.

This consent does not operate until the following deferred commencement condition has been satisfied:

1. Release of drainage easements

Prior to the operation of the consent, the applicant must obtain the approval of

Ku-ring-gai Council and Roads and Maritime Services for the release of the drainage easements which currently burden the subject site. Council's approval must be in the form of a resolution of Council to affix the Seal to the documentation for the release of the easement. Application is to be made to Council under the Easement Management Policy, available at the following link http://www.kmc.nsw.gov.au/Your_Council/Organisation/Policies. Approval is not guaranteed and conditions may be imposed including monetary incentives to extinguish and relocate easements.

The formal approval of Roads and Maritime Services to the release of its easement is to be submitted to Council, including evidence that the applicant has reached agreement with Roads and Maritime Commercial Property Section to any compensation owing for the release of the easement.

Reason: To protect the environment and the assets of Council and Roads and Maritime Services.

Upon receipt of written notification from Council that the abovementioned condition has been satisfied, the consent shall operate and the following conditions will apply:

SCHEDULE B - The standard conditions of consent are set out as follows:

CONDITIONS THAT IDENTIFY APPROVED PLANS:

1. Approved architectural plans and documentation (new development)

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

| Plan no. | Drawn by | Dated |
|--|-----------------|--------------|
| Existing Site/Demolition Plan 302668 DA101 Issue F | Dwp Suters | 17/03/2014 |
| Floor Plan/Site Plan 302668 DA120 Issue N | Dwp Suters | 20/03/2014 |
| Floor Plan/Lower Ground Plan 302668 DA161 Issue L | Dwp Suters | 21/07/2014 |
| Floor Plan/Ground Floor Plan 302668 DA162 Issue F | Dwp Suters | 24/03/2014 |
| Floor Plan/Level 1 Plan 302668 DA163 Issue D | Dwp Suters | 17/03/2014 |
| Floor Plan/Level 2 Plan 302668 DA164 Issue D | Dwp Suters | 17/03/2014 |
| Floor Plan/Level 3 Plan 302668 DA165 Issue H | Dwp Suters | 17/03/2014 |
| Floor Plan/Roof Plan 302668 DA166 Issue D | Dwp Suters | 17/03/2014 |

| | | |
|---|----------------|------------|
| Elevations 302668 DA401 Issue H | Dwp Suters | 17/03/2014 |
| Elevations 302668 DA402 Issue C | Dwp Suters | 17/03/2014 |
| Materials and Finishes 302668 DA750 Issue B | Dwp Suters | 17/03/2014 |
| Fence Elevations 302668 DA410 Issue A | Dwp Suters | 21/07/2014 |
| Sections/Signage 302668 DA502 Issue G | Dwp Suters | 21/07/2014 |
| Ground Floor Concept Plan DA-1333-01 Rev D | Stuart Noble | 21/07/2014 |
| Landscape Concept Plan – Ground Floor DA-1333-03 Rev E | Stuart Noble | 22/07/2014 |
| Fencing Plan DA-1333-06 Rev A | Stuart Noble | 22/07/2014 |
| Tree Removal Plan DA-1333-04 Rev A | Stuart Noble | 22/07/2014 |
| Fence Detail DA-1333-02 Rev C | Stuart Noble | 14/07/2014 |
| Siteworks Plan Basement Level MMD-315284-C-DR-00-XX-0035 Rev P6 | Mott MacDonald | 22/07/2014 |
| Siteworks Plan Ground Floor MMD-315284-C-DR-00-XX-0030 Rev P6 | Mott MacDonald | 22/07/2014 |
| Stormwater Plan MMD-315284-C-DR-00-XX-0031 Rev P4 | Mott MacDonald | 22/07/2014 |
| Sediment and Erosion Control Plan MMD-315284-C-DR-00-XX-0010 Rev P5 | Mott MacDonald | 22/07/2014 |
| Sediment and Erosion Control Plan MMD-315284-C-DR-00-XX-0011 Rev P3 | Mott MacDonald | 22/07/2014 |
| Siteworks Details Sheet 1 MMD-315284-C-DR-00-XX-0040 Rev P3 | Mott MacDonald | 22/07/2014 |
| Siteworks Details Sheet 2 MMD-315284-C-DR-00-XX-0041 Rev P3 | Mott MacDonald | 22/07/2014 |
| Siteworks Details Sheet 3 MMD-315284-C-DR-00-XX-0042 Rev P3 | Mott MacDonald | 22/07/2014 |
| Siteworks Details Sheet 4 MMD-315284-C-DR-00-XX-0043 Rev P5 | Mott MacDonald | 22/07/2014 |

| Document(s) | Dated |
|---|---------------|
| Stormwater management report (Mott Macdonald) | March 2014 |
| Flood assessment report (Mott MacDonald) | July 2014 |
| Arborist report (Stuart Pittendrigh) | July 2014 |
| Stage 1 Environmental Site Assessment (EIS) | February 2014 |
| Stage 2 Environmental Site Assessment (EIS) | November 2014 |
| Noise assessment (WSP) | 10/04/2014 |
| BCA assessment (WSP) Rev 1 | 5 March 2014 |
| Amended crime prevention through environmental design (CPTED) Report (Inspira Property Group) | 2014 |
| Geotechnical report (JK Geotechnics) | 26 March 2013 |
| Access report (Funkiton) | March 2014 |
| Traffic and parking assessment report (Varga Traffic Planning) | 24 March 2014 |
| Heritage impact assessment (Cracknell Loneragan Heritage Architects) | February 2013 |

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

2. Inconsistency between documents

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

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

3. Approved landscape plans

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

| Plan no. | Drawn by | Dated |
|---|-----------------|--------------|
| DA-1333-01 E | Sturt Noble | 22/07/2014 |
| DA-1333-02 C | | 14/07/2014 |
| DA-1333-03 E | | 22/07/2014 |
| DA-1333-04 A | | 21/07/2014 |
| DA-1333-05 | | 21/07/2014 |
| DA-1333-06 | | 22/07/2014 |
| Camellia species identification inventory | | 07/2014 |

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

CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION:

4. Asbestos works

All work involving asbestos products and materials, including asbestos-cement-sheeting (ie. Fibro), must be carried out in accordance with the guidelines for asbestos work published by WorkCover Authority of NSW.

Reason: To ensure public safety.

5. Groundwater inflow predictions

The predicted instantaneous inflow rate (expressed in litres per second) and the predicted total groundwater extraction volume (expressed in megalitres) for the defined period of construction (expressed in months) of the development shall be determined and advised to the NSW Office of Water. The treatment, management and disposal of the pumped groundwater may be subject of approval by the appropriate regulatory authority. Temporary dewatering of an amount above 3 megalitres may require a water licence to be obtained from NSW Office of Water before construction commences.

Reason: To protect the environment and to comply with the requirements of NSW Office of Water.

6. Roads and Maritime Services approval of water management plans

The post-development stormwater discharge from the subject site into the Roads and Maritime Services drainage system is not to exceed the pre-development discharge.

Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to the Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to:
The Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124.

A plan checking fee will be payable and a performance bond may be required before the Roads and Maritime approval is issued. With regard to the Civil Works requirement, please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

Reason: To comply with RMS requirements.

7. Parking restrictions

Prior to the commencement of works at the site, No Stopping restrictions are to be installed in Killeaton Street 10 metres either side of each access point. The applicant must make an application to Council and pay any necessary costs for report preparation, sign installation etc. Adequate time must be allowed for this process. All works are to be at the applicant's cost and at no cost to Council or RMS.

Reason: Traffic safety.

8. Notice of commencement

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

Reason: Statutory requirement.

9. Notification of builder's details

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

Reason: Statutory requirement.

10. Dilapidation survey and report (public infrastructure)

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

Public infrastructure

- Full road pavement width, including kerb and gutter, of Link Road, Killeaton Street and Mona Vale Road northbound over the site frontage, including the full intersections.
- All driveway crossings and laybacks opposite the subject site.

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

The developer may be held liable to any recent damage to public infrastructure in the vicinity of the site, where such damage is not accurately

recorded by the requirements of this condition prior to the commencement of works.

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

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

11. Archival recording of buildings

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

The report must consist of an archival standard photographic record of the building (internally and externally), its garden and views of it from the street illustrating its relationship to neighbouring properties and the streetscape. Recording shall be undertaken in accordance with the guidelines for "Photographic Recording of Heritage Items Using Film or Digital Capture (2006)" prepared by the New South Wales Heritage Office.

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

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

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

12. Construction and traffic management plan

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

The plan is to consist of a report with Traffic Control Plans attached and is to detail construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control.

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

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

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

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

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

Traffic controllers must be in place at the site entry and exit points to control heavy vehicle movements in order to maintain the safety of pedestrians and other road users. Traffic controllers must also be in place at the pedestrian crossing in Killeaton Street when heavy vehicles are entering or leaving Killeaton Street.

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

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

13. Work zone

A Works Zone is to be provided in Killeaton Street, subject to the approval of the Ku-ring-gai Local Traffic Committee, prior to the commencement of any works on the site.

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

In the event the work zone is required for a period beyond that initially approved by the Traffic Committee, the applicant shall make a payment to Council for the extended period in accordance with Council's schedule of fees

and charges for work zones prior to the extended period commencing.

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

14. Temporary construction exit

A temporary construction exit, together with necessary associated temporary fencing, shall be provided prior to commencement of any work on the site and shall be maintained throughout the duration and progress of construction.

Reason: To reduce or eliminate the transport of sediment from the construction site onto public roads.

15. Sediment controls

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

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

Reason: To preserve and enhance the natural environment.

16. Erosion and drainage management

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

Reason: To preserve and enhance the natural environment.

17. Tree protection fencing

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

| Tree/Location | Radius from trunk |
|---------------|-------------------|
|---------------|-------------------|

| | |
|--|-----------------------------------|
| T37 <i>Magnolia denudata</i> (Yulan) Adjacent to Mona Vale Rd site frontage | 4.0m north-west 5.8m elsewhere |
| T38 <i>Camellia sasanqua</i> 'Wahroonga' Adjacent to Mona Vale Rd site frontage | 1.0m west 3.0m elsewhere |
| T39 <i>Camellia sasanqua</i> 'Hiriyo' Adjacent to Mona Vale Rd site frontage | 1.0m north 3.0m elsewhere |
| T40 <i>Camellia sasanqua</i> 'Nicky Crisp' Adjacent to Mona Vale Rd site frontage | 4.4m |
| T41 <i>Camellia sasanqua</i> 'Emperor of Russia' Adjacent to Mona Vale Rd site frontage | 4.5m |
| T42 <i>Camellia sasanqua</i> 'Egao' Adjacent to Mona Vale Rd site frontage | 4.0m |
| T43 <i>Camellia reticulata</i> 'Californian Sunset' Adjacent to Mona Vale Rd site frontage | 3.0m |
| T44 <i>Camellia reticulata</i> 'Red Crystal' Adjacent to Mona Vale Rd site frontage | 3.0m |
| T45 <i>Camellia sasanqua</i> 'Lucinda' Eastern site corner | 3.0m |
| T46 <i>Camellia sasanqua</i> 'Lucinda' Eastern site corner | 3.0m |
| CS2 <i>Camellia sasanqua</i> 'Chansonette' Mona Vale Rd site frontage | 2.5m |
| CS4 <i>Camellia sasanqua</i> 'Little Pearl' Mona Vale Rd site frontage | 3.0m |
| CS10 <i>Camellia sasanqua</i> 'Plantation Pink' Adjacent to Mona Vale Rd site frontage | 3.0m |
| CS11 <i>Camellia sasanqua</i> 'Setsugekka' Adjacent to Mona Vale Rd site frontage | 3.0m |
| CJ8 <i>Camellia japonica</i> 'Emperor of Russia' variegated Adjacent to Mona Vale Rd site frontage | 3.0m |
| CJ9 <i>Camellia japonica</i> 'Great Eastern' Adjacent to Mona Vale Rd site frontage | 3.0m |

Reason: To protect existing trees during the construction phase.

18. Tree protective fencing type galvanised mesh

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

Reason: To protect existing trees during construction phase.

19. Tree protection signage

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

Tree protection zone.

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

Reason: To protect existing trees during the construction phase.

20. Tree protection mulching

Prior to works commencing and throughout construction, the area of the tree protection zone is to be mulched to a depth of 100mm with composted organic material being 75% Eucalyptus leaf litter and 25% wood.

Reason: To protect existing trees during the construction phase.

21. Tree fencing inspection

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

Reason: To protect existing trees during the construction phase.

22. Construction waste management plan

Prior to the commencement of any works, the Principal Certifying Authority shall be satisfied that a waste management plan, prepared by a suitably qualified person, has been prepared in accordance with Council's Ku-ring-gai Local Centres DCP – Volume C 3.9 Construction, Demolition and Disposal.

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

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

Reason: To ensure appropriate management of construction waste.

23. Noise and vibration management plan

Prior to the commencement of any works, a noise and vibration management plan is to be prepared by a suitably qualified expert addressing the likely noise and vibration from demolition, excavation and construction of the proposed

development and provided to the Principal Certifying Authority. The management plan is to identify amelioration measures to achieve the best practice objectives of AS 2436-2010 and NSW Department of Environment and Climate Change Interim Construction Noise Guidelines. The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works.

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

- identification of the specific activities that will be carried out and associated noise sources
- identification of all potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment
- the construction noise objective specified in the conditions of this consent
- the construction vibration criteria specified in the conditions of this consent
- determination of appropriate noise and vibration objectives for each identified sensitive receiver
- noise and vibration monitoring, reporting and response procedures
- assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles and any traffic diversions
- description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction
- construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency
- procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration
- contingency plans to be implemented in the event of non-compliances and/or noise complaints

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

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE:

24. Tanked basement design and construction

The proposed development must not incorporate provision for the permanent or semi-permanent pumping of groundwater seepage from below-ground areas. A fully tanked structure must be used. The design must be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To comply with the requirements of NSW Office of Water.

25. Water management

The Construction Certificate plans are to incorporate re-use of retained roofwater for staff toilet flushing and water treatment measures as described in Section 4.2 of the Stormwater Management Report by Mott MacDonald dated March 2013.

Reason: To protect the environment.

26. Road traffic noise mitigation

The proposed residential component of the development shall be designed such that road traffic noise from Mona Vale Road is mitigated by durable materials to satisfy requirements under Clause 102(3) of the State Environmental Planning Policy (Infrastructure) 2007. The Roads and Maritime's Environmental Noise Management Manual provides practical advice in selecting noise mitigation treatments.

Reason: Roads and Maritime Services requirement.

27. Noise control measures

Prior to commencement of any works the Principal Certifying Authority shall be satisfied that suitable acoustic measures have been employed in the design of the project to ensure that recommendations as provided for in the Acoustic Report prepared by WSP Acoustics, as submitted with this application.

Note: Plans, specifications and certifications of the proposed acoustic measures (including but not limited to acoustic barriers/screens) to achieve the recommendations of the Noise Assessment Report prepared by WSP Acoustics (as amended) for consideration and approval prior to the issue of the Construction Certificate:

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

28. Site contamination and remediation.

A remediation Action plan (RAP) and site Audit Statement (SAS) is to be prepared by a suitably qualified person addressing all site contamination and remediation issues identified in the Stage 2 Environmental Site Assessment prepared by EIS dated November 2014 submitted in support of the application.

The site is to be remediated and validated in accordance with the report/s prior to execution of any works associated with this development, prior to any construction certificate. Any excavation or change in existing ground levels, or

any remediation works within a distance of 7m from the trunk of tree T37 *Magnolia denudata* (Yulan) shall be undertaken under the direct supervision of a AQF5 Project Arborist with written report of all works carried out being provided to the Principal Certifying Authority and Council.

A site audit statement is to be submitted with Council clearly indicating that the site is suitable for the proposed use. Conditions of the site audit statement shall form part of this consent. An accredited site auditor is to be appointed to manage all recommended site contamination and remediation measures.

Any variation to the proposed RAP shall be approved in writing by the accredited site auditor and Council prior to the commencement of such work.

Reason: SEPP 55 and environmental safety.

29. Amendments to approved landscape plan

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

| Plan no. | Drawn by | Dated |
|--------------|-------------|------------|
| Da-1333-03 E | Sturt Noble | 22/07/2014 |

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

- The footpath shown within the Killeaton St frontage is to be deleted as it is not part of the site and requires separate approval.
- T11 is to be shown to be removed
- To replenish T10, T11 and T12 which are to be removed, three *Angophora costata* (Sydney Red Gum) shall be planted within corner nature strip area where Killeaton St and Link Rd meet, as a group planting
- Planting outside of site boundaries (with the exception of street trees) is not approved. Nature strip areas shall be maintained as grass.
- For landscape and streetscape amenity, where the proposed 2.5m high acoustic fence is located within a 2.0m setback from site boundaries, it shall be screened with evergreen screening shrubs eg *Camellia sasanqua*, *Viburnum odoritissimum*, or *Murraya paniculata*, that are capable of attaining a height above the height of the fence. Screen planting shall be allowed to grow higher than the proposed fence.
- The proposed locations of the relocated CJ47 and CJ48 shall be relocated outside of the proposed bio-retention basin.
- To enhance the tree canopy the planting of a *Tristania laurina* (Water Gum) located adjacent to the northwest side of the vehicular goods entry shall be amended to be *Angophora costata* (Sydney Red Gum).
- To enhance the tree canopy, the planting of the *Pyrus calleryana* 'Chanticleer' and *Michelia champaca* (Golden Champa) within the

northern setback shall be amended to *Angophora costata* (Sydney Red Gum)

- To enhance the tree canopy, the proposed plantings of two *Ceratopetalum apetalum* (Coachwood) closest to the Mona Vale Rd site boundary shall be amended to *Syncarpia glomulifera* (Turpentine).
- Landscape plan to show CS2, CS4, CS10, CS11, CJ8, and CJ9, being retained in-situ
- CJ92 (*Camellia japonica* 'Drama Girl') is shown in two locations on plan. One is to be replaced with CHRy95 (*Camellia reticulata* 'Wynne Raynor') which has not been shown on plan
- CJ28 (*Camellia japonica* 'Betty Ridley') is to be shown on plan in its relocated position (currently not shown but identified to be transplanted and reinstated on site)

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

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

Reason: To ensure adequate landscaping of the site.

30. Long service levy

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

Reason: Statutory requirement.

31. Builder's indemnity insurance

The applicant, builder, developer or person who does the work on this development, must arrange builder's indemnity insurance and submit the certificate of insurance in accordance with the requirements of Part 6 of the Home Building Act 1989 to the Certifying Authority for endorsement of the plans accompanying the Construction Certificate.

It is the responsibility of the applicant, builder or developer to arrange the builder's indemnity insurance for residential building work over the value of \$20,000. The builder's indemnity insurance does not apply to commercial or industrial building work or to residential work valued at less than \$20,000, nor to work undertaken by persons holding an owner/builder's permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).

Reason: Statutory requirement.

32. Outdoor lighting

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

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

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

33. Access for people with disabilities

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that access for people with disabilities from the public domain and all car parking areas on site to all areas within the building and communal open space areas is provided. Consideration must be given to the means of dignified and equitable access.

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

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

34. Driveway crossing levels

The design and construction of the new driveway on Link Road shall be in accordance with RMS requirements. Details of these requirements should be obtained from RMS's Project Services Manager, Traffic Projects Section, Parramatta on 8849 2496.

Prior to issue of the Construction Certificate, driveway and associated footpath levels for the new driveway crossings in Killeaton Street must be obtained from Ku-ring-gai Council.

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

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

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

1. the proposed trunk drainage pipe relocation in Link Road and Killeaton Street.
2. works to external footpaths recommended in the Access Report by Funktion dated 20/03/14.

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

The required plans and specifications are to be designed in accordance with the General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council, dated November 2004. The drawings must detail existing utility services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works. Survey must be undertaken as required. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 - 1996 - Field Guide for Traffic Control at Works on Roads - Part 1 and RTA Traffic Control at Work Sites (1998). Construction of the works must proceed only in accordance with any conditions attached to the Roads Act approval issued by Council.

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

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

36. Utility provider requirements

Prior to issue of the Construction Certificate, the applicant must make contact with all relevant utility providers whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained. All utility

services or appropriate conduits for the same must be provided by the developer in accordance with the specifications of the utility providers.

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

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE OR PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION (WHICHEVER COMES FIRST):

37. Infrastructure restorations fee

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

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

“Council Property” includes any road, footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, letter bins, trees, shrubs, lawns, mounds, bushland, and similar structures or features on any road or public road within the meaning of the Local Government Act 1993 (NSW) or any public place; and

“Infrastructure Restoration Fee” means the Infrastructure Restorations Fee calculated in accordance with the Schedule of Fees & Charges

adopted by Council as at the date of payment and the cost of any inspections required by the Council of Council Property associated with this condition.

Reason: To maintain public infrastructure.

**38. Section 94 Contributions - Centres.
(For DAs determined on or after 19 December 2010)**

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

Development Contributions Plan 2010

| Infrastructure Type | Total |
|--|--------------|
| LGA Wide Local Recreational & Cultural | \$111,273.07 |
| St Ives TC Local Parks & Sporting Facilities | \$903,628.80 |
| St Ives TC Townscape Transport & Pedestrian Facilities | \$520,957.73 |

Development Contributions Total **\$1,535,859.60**

The contribution shall be paid to Council prior to the issue of any Construction Certificate, Linen Plan, Certificate of Subdivision or Occupation Certificate whichever comes first in accordance with Ku-ring-gai Contributions Plan 2010.

The contributions specified above are subject to indexation and will continue to be indexed to reflect changes in the consumer price index and housing price index until they are paid in accordance with Ku-ring-gai Contributions Plan 2010 to reflect changes in the consumer price index and housing price index. Prior to payment, please contact Council directly to verify the current payable contributions.

Copies of Council's Contribution Plans can be viewed at Council Chambers, 818 Pacific Hwy Gordon or on Council's website at www.kmc.nsw.gov.au.

Reason: To ensure the provision, extension or augmentation of the Key Community Infrastructure identified in Ku-ring-gai Contributions Plan 2010 that will, or is likely to be, required as a consequence of the development.

**CONDITIONS TO BE SATISFIED DURING THE DEMOLITION,
EXCAVATION AND CONSTRUCTION PHASES:**

39. Road opening permit

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

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

40. Prescribed conditions

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

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

Reason: Statutory requirement.

41. Hours of work

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

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

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

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

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

42. Approved plans to be on site

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

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

43. Engineering fees

For the purpose of any development related inspections by Ku-ring-gai Council engineers, the corresponding fees set out in Councils adopted Schedule of Fees and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any final consent from Council.

Reason: To protect public infrastructure.

44. Site notice

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

The site notice must:

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

Reason: To ensure public safety and public information.

45. Dust control

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

- physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust
- earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed
- all materials shall be stored or stockpiled at the best locations
- the ground surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs
- all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust
- all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays
- gates shall be closed between vehicle movements and shall be fitted with shade cloth
- cleaning of footpaths and roadways shall be carried out daily

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

46. Further geotechnical input

The geotechnical and hydro-geological works implementation, inspection, testing and monitoring program for the excavation and construction works must be in accordance with the report by **JK Geotechnics dated 26 March 2013**. Over the course of the works, a qualified geotechnical/hydro-geological engineer must complete the following:

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

Reason: To ensure the safety and protection of property.

47. Compliance with submitted geotechnical report

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

Geotechnical aspects of the development work, namely:

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

must be undertaken in accordance with the recommendations of the geotechnical report prepared by **JK Geotechnics dated 26 March 2013**. Approval must be obtained from all affected property owners, including Kuring-gai Council, where rock anchors (both temporary and permanent) are proposed below adjoining property(ies).

Reason: To ensure the safety and protection of property.

48. Use of road or footpath

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

Reason: To ensure safety and amenity of the area.

49. Guarding excavations

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

Reason: To ensure public safety.

50. Toilet facilities

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

Reason: Statutory requirement.

51. Protection of public places

If the work involved in the erection, demolition or construction of the development is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

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

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

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

Reason: To protect public places.

52. Recycling of building material (general)

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

Reason: To facilitate recycling of materials.

53. Construction signage

All construction signs must comply with the following requirements:

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

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

54. Approval for rock anchors

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

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

55. Maintenance period for works in public road

A maintenance period of six (6) months applies to all work in the public road reserve carried out by the applicant - after the works have been completed to the satisfaction of Ku-ring-gai Council. In that maintenance period, the applicant shall be liable for any section of the public infrastructure work which fails to perform in the designed manner, or as would reasonably be expected

under the operating conditions. The maintenance period shall commence once the applicant receives a formal letter from Council stating that the works involving public infrastructure have been completed satisfactorily.

Reason: To protect public infrastructure.

56. Road reserve safety

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

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

57. Services

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

Reason: Provision of utility services.

58. Temporary rock anchors

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

- How the temporary rock anchors will be left in a way that they will not harm or interfere with any future excavation in the public road

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

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

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

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

59. Sydney Water Section 73 Compliance Certificate

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

Reason: Statutory requirement.

60. Arborist's report

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

| Tree/Location | Time of inspection |
|--|--|
| T37 <i>Magnolia denudata</i> (Yulan) Adjacent to Mona Vale Rd site frontage | <ul style="list-style-type: none"> * Immediately prior to ANY work commencing * Certification of correct identification of existing trees and shrubs consistent with the application prior to removal of any vegetation * Certification of correct tree protection requirements as specified. * At the completion of excavation/regrading works * At three monthly intervals during development works * Certification of relocation of transplanted <i>Camellia</i>'s back to site * At the completion of all works on site |
| T38 <i>Camellia sasanqua</i> 'Wahroonga' Adjacent to Mona Vale Rd site frontage | |
| T39 <i>Camellia sasanqua</i> 'Hiriyo' Adjacent to Mona Vale Rd site frontage | |
| T40 <i>Camellia sasanqua</i> 'Nicky Crisp' Adjacent to Mona Vale Rd site frontage | |
| T41 <i>Camellia sasanqua</i> 'Emperor of Russia' Adjacent to Mona Vale Rd site frontage | |
| T42 <i>Camellia sasanqua</i> 'Egao' Adjacent to Mona Vale Rd site frontage | |
| T43 <i>Camellia reticulata</i> 'Californian Sunset' Adjacent to Mona Vale Rd site frontage | |
| T44 <i>Camellia reticulata</i> 'Red Crystal' Adjacent to Mona Vale Rd site frontage | |
| T45 <i>Camellia sasanqua</i> 'Lucinda' Eastern site corner | |
| T46 <i>Camellia sasanqua</i> 'Lucinda' Eastern site corner | |
| CS2 <i>Camellia sasanqua</i> 'Chansonette' Mona Vale Rd site frontage | |
| CS4 <i>Camellia sasanqua</i> 'Little Pearl' Mona Vale Rd site frontage | |
| CS10 <i>Camellia sasanqua</i> 'Plantation Pink' Adjacent to Mona Vale Rd site frontage | |
| CS11 <i>Camellia sasanqua</i> 'Setsugekka' Adjacent to Mona Vale Rd site frontage | |
| CJ8 <i>Camellia japonica</i> 'Emperor of Russia' variegated Adjacent to Mona Vale Rd site frontage | |
| CJ9 <i>Camellia japonica</i> 'Great Eastern' Adjacent to Mona Vale Rd site frontage | |

Reason: To ensure protection of existing trees.

61. Trees on nature strip

The removal of existing trees from Council's nature strip shall be undertaken at no cost to Council by an experienced tree removal contractor/arborist holding public liability insurance amounting to a minimum cover of \$20,000,000:

Reason: To ensure protection of existing trees.

62. Cutting of tree roots

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

| Tree/Location | Radius from trunk |
|--|---------------------------|
| T37 <i>Magnolia denudata</i> (Yulan) Adjacent to Mona Vale Rd site frontage | 5.8m |
| T38 <i>Camellia sasanqua</i> 'Wahroonga' Adjacent to Mona Vale Rd site frontage | 2.0m west 3.0m elsewhere |
| T39 <i>Camellia sasanqua</i> 'Hiriyo' Adjacent to Mona Vale Rd site frontage | 2.0m north 3.0m elsewhere |
| T40 <i>Camellia sasanqua</i> 'Nicky Crisp' Adjacent to Mona Vale Rd site frontage | 4.4m |
| T41 <i>Camellia sasanqua</i> 'Emperor of Russia' Adjacent to Mona Vale Rd site frontage | 4.5m |
| T42 <i>Camellia sasanqua</i> 'Egao' Adjacent to Mona Vale Rd site frontage | 4.0m |
| T43 <i>Camellia reticulata</i> 'Californian Sunset' Adjacent to Mona Vale Rd site frontage | 4.0m |
| T44 <i>Camellia reticulata</i> 'Red Crystal' Adjacent to Mona Vale Rd site frontage | 4.0m |
| T45 <i>Camellia sasanqua</i> 'Lucinda' Eastern site corner | 3.0m |
| T46 <i>Camellia sasanqua</i> 'Lucinda' Eastern site corner | 3.0m |
| CS2 <i>Camellia sasanqua</i> 'Chansonette' Mona Vale Rd site frontage | 2.5m |
| CS4 <i>Camellia sasanqua</i> 'Little Pearl' Mona Vale Rd site frontage | 3.0m |
| CS10 <i>Camellia sasanqua</i> 'Plantation Pink' Adjacent to Mona Vale Rd site frontage | 3.0m |
| CS11 <i>Camellia sasanqua</i> 'Setsugekka' Adjacent to Mona Vale Rd site frontage | 3.0m |
| CJ8 <i>Camellia japonica</i> 'Emperor of Russia' variegated Adjacent to Mona Vale Rd site frontage | 3.0m |
| CJ9 <i>Camellia japonica</i> 'Great Eastern' Adjacent to Mona Vale Rd site frontage | 3.0m |

Reason: To protect existing trees.

63. Approved tree works

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

| Tree/Location | Approved tree works |
|--|----------------------------|
| T1 - T9 <i>Fraxinus Raywoodii</i> (Claret Ash) Killeaton St nature strip | Removal |
| T10 <i>Jacaranda mimosifolia</i> (Jacaranda) Killeaton St nature strip | Removal |

| | |
|---|--------------------------------|
| T11 <i>Liquidambar styraciflua</i> (Sweet Gum) Killeaton St nature strip | Removal |
| T12 <i>Jacaranda mimosifolia</i> (Jacaranda) Killeaton St nature strip | Removal |
| T13 <i>Fraxinus griffithii</i> (Evergreen Ash) Link Rd nature strip | Removal |
| T14-T21 <i>Melaleuca quinquenervia</i> (Broad leaf paper-bark) Link Rd nature strip | Removal |
| T22 <i>Fraxinus griffithii</i> (Evergreen Ash) Link Rd nature strip | Removal |
| T23-T26 <i>Melaleuca quinquenervia</i> (Broad leaf paper-bark) Link Rd nature strip | Removal |
| T27-T32 <i>Robinia pseudoacacia</i> 'Frisia' (Golden Robinia) Mona Vale Rd nature strip | Removal |
| <i>Camellia sasanqua</i> varieties as specified DA-1333-04 On site | Removal and/or Transplantation |
| <i>Camellia japonica</i> varieties as specified DA-1333-04 On site | Removal and/or Transplantation |
| <i>Camellia reticulata</i> varieties as specified DA1333-04 On site | Removal and/or Transplantation |

All trees and shrubs shall be clearly tagged and identified consistent with the Arboricultural Assessment by Stuart Pittendrigh dated July 2014, and *Camellia* identification inventory by Bill Parker, prior to the commencement of ANY works on site. Removal or pruning of any other tree on the site is not approved, excluding species exempt under Council's Tree Preservation Order.

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

64. Hand excavation

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

| Tree/Location | Radius from trunk |
|---|---------------------------|
| T37 <i>Magnolia denudata</i> (Yulan) Adjacent to Mona Vale Rd site frontage | 5.8m |
| T38 <i>Camellia sasanqua</i> 'Wahroonga' Adjacent to Mona Vale Rd site frontage | 2.0m west 3.0m elsewhere |
| T39 <i>Camellia sasanqua</i> 'Hiriyo' Adjacent to Mona Vale Rd site frontage | 2.0m north 3.0m elsewhere |
| T40 <i>Camellia sasanqua</i> 'Nicky Crisp' Adjacent to Mona Vale Rd site frontage | 4.4m |
| T41 <i>Camellia sasanqua</i> 'Emperor of Russia' Adjacent to Mona Vale Rd site frontage | 4.5m |
| T42 <i>Camellia sasanqua</i> 'Egao' Adjacent to Mona Vale Rd site frontage | 4.0m |

| | |
|--|------|
| T43 <i>Camellia reticulata</i> 'Californian Sunset' Adjacent to Mona Vale Rd site frontage | 4.0m |
| T44 <i>Camellia reticulata</i> 'Red Crystal' Adjacent to Mona Vale Rd site frontage | 4.0m |
| T45 <i>Camellia sasanqua</i> 'Lucinda' Eastern site corner | 3.0m |
| T46 <i>Camellia sasanqua</i> 'Lucinda' Eastern site corner | 3.0m |
| CS2 <i>Camellia sasanqua</i> 'Chansonette' Mona Vale Rd site frontage | 2.5m |
| CS4 <i>Camellia sasanqua</i> 'Little Pearl' Mona Vale Rd site frontage | 3.0m |
| CS10 <i>Camellia sasanqua</i> 'Plantation Pink' Adjacent to Mona Vale Rd site frontage | 3.0m |
| CS11 <i>Camellia sasanqua</i> 'Setsugekka' Adjacent to Mona Vale Rd site frontage | 3.0m |
| CJ8 <i>Camellia japonica</i> 'Emperor of Russia' variegated Adjacent to Mona Vale Rd site frontage | 3.0m |
| CJ9 <i>Camellia japonica</i> 'Great Eastern' Adjacent to Mona Vale Rd site frontage | 3.0m |

Reason: To protect existing trees.

65. No storage of materials beneath trees

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

Reason: To protect existing trees.

66. Tree planting on nature strip

The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along Killeaton St, Link Rd and Mona Vale Rd. The tree/s used shall be a minimum 75 litres container size specimen/s:

| Tree/Species | Quantity | Location |
|---|-----------------|---------------------------------|
| <i>Syncarpia glomulifera</i> (Turpentine) | 8 | Killeaton St |
| <i>Tristania laurina</i> (Water Gum) | 10 | Link Rd |
| <i>Syncarpia glomulifera</i> (Turpentine) | 7 | Mona Vale Rd |
| <i>Angophora costata</i> (Sydney Red Gum) | 3 | Cnr of Killeaton St and Link Rd |

Reason: To provide appropriate landscaping within the streetscape.

67. Tree removal on nature strip

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

Reason: To protect the streetscape.

68. Removal of refuse

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

Reason: To protect the environment.

69. Canopy replenishment trees to be planted

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

Reason: To maintain the treed character of the area.

70. On site retention of waste dockets

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

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

Reason: To protect the environment.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE:

71. Waste arrangements

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority must be satisfied that a contract or contracts is/ are in place for the collection of all waste from the loading dock.

Reason: To prevent pollution of the environment and to protect the amenity of the area.

72. Waste collection contractor

Prior to the issue of an occupation certificate for the development, the applicant must submit to Council details of the waste contractor engaged to service the development. These details are to include name, contact phone number, copy of waste collection contract, and details of the vehicle that will

be used to service waste collection for the building.

Reason: To ensure safe traffic movement and neighbourhood amenity.

73. Cleanliness and maintenance of food preparation areas and storage areas

Prior to the issue of the Occupation Certificate, The Principal Certifying Authority shall be satisfied that the construction of all food preparation and storage areas shall be in accordance with the requirements of the Food Act and Regulations, Australian Standard 4674-2004 (Design Construction and Fit-out of Food Premises), Australian Standard AS 4676 2004, AS 1668 Parts 1 and 2, Council's Development Control Plan No 40 'Construction & Demolition Waste Management

Reason: To ensure compliance with standards for food premises.

74. Mechanical ventilation

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

1. The installation and performance of the mechanical systems complies with the recommendations as provided for in the Acoustic Report prepared by WSP Acoustics as submitted with this application and/or compliance with:

The Building Code of Australia
Australian Standard AS1668
Australian Standard AS3666 where applicable

2. The mechanical ventilation system in isolation and/or in association with other noise generating plant when in operation will not exceed more than 5dB(A) above the background level during the day when measured at the nearest residential property boundary and will not be audible before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and public holidays when measured at the nearest residential property boundary.

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

Reason: Statutory requirement and to protect the amenity of surrounding properties.

75. Microbial control (Legionella)

The installation and maintenance of hot water / warm water systems shall be in accordance with the requirements of the Public Health Act and Regulations, AS/NZS 3666 - 2002: 'Air Handling and Water Systems of Buildings - Microbial Control'.

Note: Prior to the issue of any Occupation Certificate and following completion, installation and testing of all hot water / warm water systems, the Principal Certifying Authority shall be satisfied that systems meet with the requirements of the Public Health Act and Regulations, AS/NZS 3666 - 2002: 'Air Handling and Water Systems of Buildings - Microbial Control'.

Reason: Statutory requirement and to protect the health and amenity of the occupants of the premises.

76. Feature wall/public art

The public art piece located within the Link Road site frontage shall include interpretive panels that depict the local cultural significance of the site.

The final artwork shall be approved by Council's Heritage Advisor and Landscape and Tree Assessment Officer prior to the issue of the Occupation Certificate.

The final artwork shall be installed in the location indicated on the approved plans prior to the release of the Occupation Certificate.

Reason: Streetscape amenity and public engagement.

77. Completion of landscape works

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

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

78. Accessibility

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

- the lift design and associated functions are compliant with AS 1735.12 & AS 1428.2
- the level and direction of travel, both in lifts and lift lobbies, is audible and visible
- the controls for lifts are accessible to all persons and control buttons and lettering are raised

- international symbols have been used with specifications relating to signs, symbols and size of lettering complying with AS 1428.2
- the height of lettering on signage is in accordance with AS 1428.1 - 1993
- the signs and other information indicating access and services incorporate tactile communication methods in addition to the visual methods

Reason: Disabled access & services.

79. Retention and re-use positive covenant

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

The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instruments for protection of retention and re-use facilities" and to the satisfaction of Council (refer to Volume C Part 4R.9 of Ku-ring-gai Local Centres DCP). For existing titles, the positive covenant and the restriction on the use of land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the reuse and retention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

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

Reason: To protect the environment.

80. Creation of a floodway restriction

Prior to issue of the Occupation Certificate, the applicant must create a positive covenant and restriction-on-use on the title of the subject property. The restriction is to be over the overland flow culvert identified in the **Flood Assessment Report by Mott MacDonald Revision E dated 22.07.14** and must prevent the placement of any structures, walls, fences, fill or other items which may impede the 100 year ARI flood, within that zone. Ku-ring-gai Council is to be named as the Authority whose consent is required to release, vary or modify the restriction. The terms of the positive covenant are to ensure that the property owner will be responsible for the construction and ongoing maintenance of the overland flow culvert.

Reason: To protect the environment.

81. Certification of drainage works (dual occupancies and above)

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

- the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans
- retained water is connected and available for use
- all grates potentially accessible by children are secured
- components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage Code AS3500.3 2003 and the Building Code of Australia
- all enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices

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

Reason: To protect the environment.

82. WAE plans for stormwater management and disposal (dual occupancy and above)

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

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

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

Reason: To protect the environment.

83. OSD positive covenant/restriction

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

The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" and to the satisfaction of Council (refer to Volume C Part 4R.9 of Ku-ring-gai Local Centres DCP). For existing titles, the positive covenant and the restriction on the use of land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the on-site detention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

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

Reason: To protect the environment.

84. Sydney Water Section 73 Compliance Certificate

Prior to issue of an Occupation Certificate the Section 73 Sydney water Compliance Certificate must be obtained and submitted to the Principal Certifying Authority

Reason: Statutory requirement.

85. Reinstatement of redundant crossings and completion of infrastructure works

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that he or she has received a signed inspection form from Council which states that the following works in the road reserve have been completed:

- new concrete driveway crossings in accordance with levels and specifications issued by Council and/or Roads and Maritime Services.

- removal of all redundant driveway crossings and kerb laybacks (or sections thereof) and reinstatement of these areas to footpath, turfed verge and upright kerb and gutter (reinstatement works to match surrounding adjacent infrastructure with respect to integration of levels and materials)
- full repair and resealing of any road surface damaged during construction
- full replacement of damaged sections of grass verge to match existing

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

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

Reason: To protect the streetscape.

86. Construction of works in public road - approved plans

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

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

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

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

87. Fire safety certificate

Prior to the issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that a Fire Safety Certificate for all the essential fire

or other safety measures forming part of this consent has been completed and provided to Council.

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

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

88. Restriction on land title - seniors living development

Prior to the issue of the Occupation Certificate, the Principal Certifying Authority is to be satisfied that restriction as to use of land under Section 88E of the Conveyancing Act 1919, has been created restricting the occupation of the premises to:

- people 55 or over or people who have a disability
- people who live with people 55 or over or people who have a disability
- staff employed to assist in the administration of and provision of services to housing provided in this development

Reason: To ensure that the development meets the provisions of the Seniors Living SEPP.

CONDITIONS TO BE SATISFIED AT ALL TIMES:

89. Loading dock

No service vehicles are to access the loading dock between 6am and 10am.

Reason: Roads and Maritime Services requirement.

90. Garbage and recycling facilities

All waste and recycling bins associated with the premises are to be stored within the designated internal waste storage area on the ground floor.

Reason: To prevent pollution of the environment and to protect the amenity of the area.

91. Loading and unloading

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

Reason: To ensure safe traffic movement.

92. Construction of food preparation and storage areas

The construction of any kitchen, food preparation area and/or storage area shall be in accordance with the requirements of the Food Act 2003, Food Regulation 2004, Food Safety Standards including Standards Code 3.2.3

(Food Premises and Equipment), and Australian Standard 4674-2004 (Design Construction and Fit-out of Food Premises).

Reason: To ensure compliance with food standards.

93. Offensive noise

Any noise generating equipment shall not give rise to an offensive noise as defined in the Protection of the Environment Operations Act 1997. All plant/mechanical ventilation systems shall be provided with suitable sound attenuation equipment designed by a practicing Acoustic Engineer so that when in operation the operation of the plant does not give rise to offensive noise.

Reason: To comply with best practice standards for acoustic amenity.

94. Outdoor lighting

At all times for the life of the approved development, all outdoor lighting shall not detrimentally impact upon the amenity of other premises and adjacent dwellings and shall comply with, where relevant, AS/NZ1158.3: 2005 Pedestrian Area (Category P) Lighting and AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting.

Reason: To protect the amenity of surrounding properties.

Janice Buteux-Wheeler
Senior Development Assessment Officer

Richard Kinninmont
Team Leader
Development Assessment

Corrie Swanepoel
Manager
Development Assessment

Michael Miocic
Director Development and Regulation

ATTACHMENTS:

- A. Location Sketch: (TRIM: 2014/277846)
- B. Zoning Extract: (TRIM: 2014/277849)
- C. Architectural Plans (TRIM:2014/073967)
- D. Fence Elevations (TRIM: 2014/183224)
- E. Sections/Signage (TRIM: 2014/183225)
- F. Ground Floor Concept Plan (TRIM: 2014/183252)
- G. Landscape Concept Plan (TRIM: 2014/183429)
- H. Fencing Plan (TRIM: 2014/183256)
- I. Tree Removal Plan (TRIM: 2014/183254)

- J. Fence Detail (TRIM: 2014/183253)
- K. Siteworks Plan Basement Level (TRIM: 2014/183241)
- L. Siteworks Plan Ground Floor (TRIM: 2014/183237)
- M. Stormwater Plan (TRIM: 2014/183239)
- N. Sediment and Erosion Control Plan (TRIM: 2014/183235)
- O. Sediment and erosion control plan (TRIM: 2014/183233)
- P. Siteworks details sheet 1 (TRIM: 2014/183245)
- Q. Siteworks details sheet 2 (TRIM: 2014/183246)
- R. Siteworks details sheet 3 (TRIM: 2014/183247)
- S. Siteworks details sheet 4 (TRIM: 2014/183249)
- T. Stormwater management report (TRIM: 2014/074004)
- U. Flood assessment report (TRIM: 2014/183250)
- V. Arborist report (TRIM: 2014/183258)
- W. Stage 1 environmental site assessment (TRIM: 2013/080892)
- X. Stage 2 environmental site assessment (TRIM: 2014/283202)
- Y. Noise assessment (TRIM: 2014/073984)
- Z. BCA assessment (TRIM: 2014/073986)
- AA. Crime prevention through environmental design (CPTED) Report (TRIM: 2014/073997)
- BB. Geotechnical report (TRIM: 2014/073988)
- CC. Access report (TRIM: 2014/073987)
- DD. Traffic and parking assessment report (TRIM: 2014/073973)
- EE. Heritage impact assessment (TRIM: 2013/080903)
- FF. SEPP 1 Objection (TRIM: 2014/277774)