

25 November 2014

Our Ref: P-12094

The General Manager
Ku-ring-gai Council
818 Pacific Highway
GORDON NSW 2072

cc: Sydney West JRPP



Dear Sir,

RE: 2013SYW094 - DA No. 03027/13 - 742, 746, 746A & 748 Pacific Highway, Gordon, Lawson Clinic - amended design in response to the JRPP's record of deferral

Please find enclosed the amended design and supporting documentation for the above Development Application (DA). This submission reflects the JRPP's record of deferral dated 24 September 2014.

A summary of the revised scheme and development statistics is provided in Section 1 below. Each of the issues raised in the JRPP's record of deferral are also addressed in detail in Section 2 below.

1. Summary of the Revised Proposal

In response to the JRPP's record of deferral which is discussed in detail in Section 2 below, this amended proposal consists of:

- Construction of a three storey building which presents as two storeys for the northern component with a gross floor area of 3,073.7sqm.
- The consolidation of three (3) lots (Lots 1 & 2 DP 851223 and Lot C DP 337904) into a single lot with the realignment of the boundary of Lot A DP 350224 to result in 2 lots of 3,444.1sqm and 1,271.5sqm respectively.
- Demolition of three (3) existing dwellings and associated garage and carport.
- The inclusion of 64 bed mental health inpatient beds being a reduction of 1 bed from previous proposals.
- A combination of at grade and basement car parking comprising 35 spaces, 1 ambulance bay and dedicated waste truck space.
- Upgrading of two (2) existing vehicular access points to the site from the Pacific Highway with the southern driveway being converted to a landscaped area with a pedestrian path.

- Retention of the existing Lawson Clinic premises at No. 748 Pacific Highway with improved vehicular access via the central driveway.
- Dedicated pedestrian access along the northern boundary.
- Stormwater Management System which connects to Bushlands Avenue to the south.
- Associated landscaping works and removal of 20 trees from the site.
- Identification signage for the driveway at No. 746 Pacific Highway, as submitted with initial DA.

The following table summarises the development statistics of the amended design:

Table 1: Revised Development Statistics

Site Area	4,715.6sqm over 2 lots
Building site coverage	Lot 1: 1,135sqm / 36% Lot 2: 450sqm / 32%
GFA	3073.1sqm
FSR	0.65:1
Deep Soil Zone	31.5%
On-site Car Parking	35 car parking spaces + 1 ambulance bay 1 service vehicle loading bay
Patient Beds	64
Patient Rooms	48
Staff - Day	4 - 8 doctors 6 administrative staff 9 nurses 2 cleaners
Staff - Night	1 - 2 admin staff after hours / weekends 6 nurses 2 cleaners
Operating Hours	Lawson Clinic operations from 748 Pacific Highway, Gordon to continue to operate at current hours. Inpatient unit to operate 24 hours / 7 days.

2. Summary of the Panel's Decision

The following is a list of the issues raised by the Panel, with a comment on behalf of the Applicant which explains how each item is resolved.

- 2.1 *As a threshold issue, whether or not development of 744 Pacific Hwy is practical, or the site is isolated. If the former applies, concept plans are to be provided showing potential development with and without a right of way. In the case of a right of way, legal advice is to be provided demonstrating that such a right of way will remain available over the long term. If the latter case applies and the property is found to be isolated, appropriate evidence of attempts to acquire the property is to be provided. Any valuation of the property must be based on the correct zoning and permissible development.*

Comment

It is maintained that 744 Pacific Highway is capable of future redevelopment and is therefore **not** isolated. The site area equates to 1,018m² which is approximately 15% less than the minimum site area identified in the KDCP. As discussed below, 744 Pacific Highway is capable of redevelopment for its highest and best use, being a residential flat building (RFB).

The potential redevelopment of 744 Pacific Highway is demonstrated in the attached Concept Plans prepared by Elevation Architecture in two forms:

- A RFB development with vehicular access via the adjoining southern driveway which is supported by a right of way. This development permits a three storey RFB containing 12 units which addresses the relevant development controls. In effect, the vehicular right of way achieves the minimum lot area and street frontage as required by Clause 6.5 of the KLEP (Local Centres) 2012, and
- A RFB development with vehicular access via the Pacific Highway. This development permits a three storey RFB containing 12 units which addresses the relevant development controls.

The attached legal advice dated 7 November 2014 has been provided in accordance with the JRPP's decision. The legal advice confirms that the creation of a right of way along part of the driveway which currently services 742 Pacific Highway (along the southern boundary of 744) will remain available over the long term.

Accordingly the site area that can be attributed to No. 744 can reasonably be increased by the size of the right of way which equates to approximately 260m². This would render the site greater than the minimum required under Council's controls at approximately 1,278m². Either way the site can be developed and is **not** isolated.

Notwithstanding the above, the applicant has attempted to purchase No. 744. Attached is a valuation, diary of attempts to purchase and a letter of offer. These actions are provided for information only since the purchase or otherwise of No. 744 by the applicant is **not** a requirement of this proposal.

- 2.2 *The need for increased setbacks at the northern and western sides of the main building are to be examined, taking into account the neighbouring heritage item to the north and the visual impact on R2 properties to the west.*

Comment

The amended scheme increases the northern setback of the new building by 500mm to a minimum of 4.027m. The northern set back is a varied building alignment which ranges from 4.027m to 6.76m. The increase in the setback has allowed for additional screen landscaping.

Of significance, the entire third storey has been deleted.

The deletion of the third storey provides the following beneficial outcomes:

- Reduced over shadowing to the west and east; refer to shadow diagrams DA 05.05, DA 05.06, DA 05.07, DA 05.08 and DA 05.12.
- The height of the proposed building is now less than the height of the Church buildings and addresses concerns raised in regard to the provision of deep soil and screen landscaping to both the dwelling house to the west and the church building to the north.
- Where the proposed new building adjoins the north west corner of the site, the height has been reduced such that the building is now a two storey form at the interface to the Church property and the house at 22 Norwood Street.
- As illustrated in the photomontages the visual impact from the cemetery and Pacific Highway will be minimal.
- Reduced scale and bulk.

The attached Heritage Impact Statement prepared by NBRS + Partners provides appropriate justification confirming that the proposed northern and northwest setback is suitable given:

- The dimensions provide adequate mitigation in the transition zone between the 2 institutional sites.
- There are no amenity issues and the primary heritage character is not affected. Noting that neither the Op Shop or Church Hall have any heritage significance.
- There is ample articulation in the northern facade that with the reduced building height there is no abrupt changes in scale between the proposed building and the Church site

With regard to the western setback, the proposal seeks to provide a varied setback of 6.0 metres to 6.9 metres with regular indentations and architectural treatments throughout to break up the appearance of the western facade.

The western setback comprises extensive and continuous landscape screening throughout. The landscaping design includes 17 canopy trees that can attain a height of 13m or more; 13 medium sized trees that can reach up to 10m; 22 smaller sized trees that can reach between 4-8m high. Of these trees there are 11 canopy trees, 11 medium sized trees and 9 smaller trees along the western and northern boundaries adjacent to the new mental health facility.

These design considerations, coupled with the deletion of the third storey from the northern portion of the building, ameliorates the visual appearance of the proposal as viewed from the R2 properties to the west.

2.3 Measures to mitigate the effects of the long western elevation of the main building.

Comment

As discussed above, the proposal seeks to provide a varied setback of 6.0 metres to 6.9 metres with regular indentations and architectural treatments including screens, sunhoods, changes in material throughout, to break up the appearance of the western facade.

The western setback comprises extensive and continuous landscape screening throughout. These design considerations, coupled with the deletion of the third storey from the northern portion of the building, ameliorates the visual appearance of the proposal as viewed from the R2 properties to the west.

2.4 Measures to address or otherwise comply with the excessive height at the northern and southern ends of the main building, taking into account its location at a zone interface.

Comment

This proposal has deleted the third storey of the development and therefore achieves a two storey building presentation at the northern end of the building, which is in keeping with the existing two storey dwellings in the area, and results in a building height which is in fact lower than the neighbouring St John's Church and Op Shop buildings.

With regard to the southern end of the building, the proposal now comprises a basement car parking area and provides a built form and vehicular circulation which steps down with the gradual slope of the site and surrounds.

The presentation of the southern end of the building is designed to be recessive and comprise passive uses and is therefore sensitive to the surrounding residential uses. As shown on the accompanying Allowable Building Height Plan (DA-05.03) the height breach is minor and relates to the roofline only.

As detailed in the accompanying Clause 4.6 Request to Vary a Development Standard, the proposed development satisfies the objectives of the LEP, zone and building height. The southern portion of the development is designed to mitigate overlooking and overshadowing impacts on the neighbouring properties. It also comprises architectural design techniques to break up the presentation of the building.

Overall, the design of the building takes into account the zone interface and provides a building which suitably transitions between the neighbouring dwellings, the higher St Johns Church and Co-op building to the north, and the potential future three storey developments along the Pacific Highway frontage.

2.5 *Measures to mitigate the perceived excessive height of retaining walls for driveways to the south of the main building.*

Comment

The proposal seeks to create levels along the central driveway and the driveway ramp to the basement level that minimise the height of the retaining walls. The driveway grades and relationship with the adjoining sites is shown on the attached Architectural Plans (DA-01.04) and the driveway long-sections in the Traffic and Parking Assessment Report prepared by URaP-TTW.

The differences in levels are the result of the existing sloping topography of the site and surrounds, and the grades as required by the relevant Australian Standards. The overall changes in the levels, for example between the driveway and the property at 744 Pacific Highway are mitigated by providing driveway levels which are below the rear of 744 and is therefore shielded from view, and providing stepped retaining walls with landscape screening.

Therefore, the extent of retaining walls in this location are minimal, and their appearance is softened with landscaping and separation.

2.6 *Demonstration that access to the area of open space to the south is practical and safe.*

Comment

The proposal seeks to landscape the southern portion of the site. This area is envisaged to have minimal use, given the primary and accessible open space area is provided at the northern portion of the building.

Should this southern area be sought to be accessed, this can be achieved via the dedicated pathway along the western boundary. Please refer to the attached Site Plan (DA-01.01), Car park Plan (DA 01.04) and the Landscape Plan (Ref L001C & L002D) or alternatively via the lift at the southern portion of the building.

2.7 *Demonstration of compliance with the parking requirements of Council or RMS or proper justification for any variations thereto.*

Comment

The proposal provides a total of 35 parking spaces + 1 ambulance bay + 1 loading bay.

As confirmed in the parking assessment prepared by UraP-TTW (attached), *the total parking demand for the proposal has been demonstrated in a range of 19 to 34 spaces. The proposal provides a total of 35 spaces + 1 ambulance bay + 1 loading bay meeting in excess of its demand.*

In accordance with the JRPP's decision, the UraP-TTW parking assessment cites evidence from the recent Pacific Private Hospital (mental health) redevelopment at Curl Curl.

In upholding the applicant's submission, both Warringah Council and Sydney East JRPP equated the operations of the subject mental health development to a "convalescent home" under the definition of the Road & Maritime Services (RMS) Guide to Traffic Generating Developments which recommends car parking be provided at the following rates:

- 1 space/10 beds (visitors),
- 1 space/2 employees,
- 1 ambulance space.

A total of 23 (63 beds/10 + 34 staff/2) car parking spaces were provided as part of South Pacific Private Hospital's (mental health) redevelopment.

In relation to this case study, the following further observations are made by URaP-TTW:

- The Lawson Clinic's development site has much greater accessibility to public transport than South Pacific Private Hospital, which is situated, on the Northern Beaches of Sydney. The Lawson Clinic site is located within 300m to a major train station and is serviced by bus routes. The site has a very high level of public transport accessibility, which further reduces the demand for on-site parking.
- Mental health facilities such as Northside Clinic Greenwich, Northside Clinic Cremorne and The Sydney Clinic Bronte provide no off street parking for their visitors/patrons.
- Recently, URaP has been commissioned by RMS to develop car parking and vehicular trip generation rates for hospitals as part of the RMS Guide. It is also understood that RMS is currently investigating to update the RMS Guide with a view to making a clear distinction between "hospitals" and "mental health facilities".

The unique operations of mental health facilities, which distinguish such facilities from general medical or surgical hospitals and which have, in the opinion of URaP-TTW, a direct bearing on reducing parking demand, has been verified in the attached letter by an eminent practitioner in psychiatry and Chair of the Royal Australian & New Zealand College of Psychiatrists (RANZCP), NSW Branch. The RANZCP is the official governing body funded by the Commonwealth of Australia to train, educate and represent psychiatrists in Australia.

As demonstrated in the URaP-TTW parking assessment, the facility will generate low levels of parking demand for staff, patients and visitors due to its use and activities.

2.8 Provision of a completely consistent set of amended plans.

Comment

This amended scheme is accompanied by a complete and consistent set of plans, as listed on the last page of this letter.

2.9 *Address the non-complying stormwater drainage issues as per the council officer's report.*

Comment

Please refer to the attached Stormwater Plans and Modelling prepared by AT&L.

The proposed stormwater drainage network of the development of 746 Pacific Highway has been modelled with DRAINs software. This modelling incorporates all the internal stormwater system of 746 Pacific Highway and the existing stormwater network of the Ravenswood School boarding house (740 Pacific Highway). The outlet into the gutter of Bushlands Avenue has also been modelled with a tailwater level set at the top of the kerb level of Bushland Avenue.

A range of storm events from the 10 yr ARI up to the 100 year ARI have been modelled and all indicate no surcharging of the existing pits within 740 Pacific Highway. As a result the development of 746 Pacific Highway does not adversely affect the stormwater drainage of 740 Pacific Highway.

The stormwater network within 740 Pacific Highway is shown within the DRAINs modelling to still function hydraulically with the development of 746 Pacific Highway. Refer to DRAINs model and attached spreadsheet of results for the 10, 20 and 100 year ARI storm events.

The rainwater tank agrees with the size nominated on the ESD report, being 10kL, and this is reflected on the attached AT&L plans. As shown on the AT&L plans, the tank is clear of pathways.

2.10 *A building design that better adjusts to the significant north/south gradient of the site, that does not result in unused underbuilding void and reduces the impact on interface properties to the west, potentially by stepping the building into differing levels.*

Comment

The proposal has been substantially redesigned, with the main component being the deletion of the top level at the northern part of the building, which has effectively been 'relocated' to the void car parking area. The primary car parking area is now located within a new basement area.

The building is stepped down in line with the sloping topography of the site, and results in the ground levels addressing the finished ground levels and avoiding any 'void' areas. The overall floor plates still achieve accessibility within the new building whilst also stepping down with the site and surrounding building forms. Refer to Points 2.2, 2.3 and 2.4 above which address the design techniques which have been employed to mitigate the potential impact on the neighbouring properties.

3. Section 94

As requested in the Statement of Environmental Effects which accompanied this DA, Council is requested to exempt the proposed development from the payable of any Development Contributions under the Section 94 Plan (see extract below).

This request for a s94 exemption is further elaborated in the attached statement from The Lawson Clinic, which details the not for profit operations of the facility, and provides significant justification as to why Council should issue an exemption.

The Contributions Plans sets out the charges or levies that apply to all development in Ku-ring-gai that gives rise to a net additional demand for infrastructure identified in the plan.

Part A of the Section 94 Plan contains a Table of Summary Contribution rates which apply to various types of developments. The site is located in the Gordon Town Centre catchment area where levies are payable with regard to:

- Local parks and local sporting facilities,
- Local recreational, cultural and social facilities,
- Local roads, local bus facilities and local drainage facilities (New Roads and Road Modifications), and
- Local roads, local bus facilities and local drainage facilities (Townscape, Transport and Pedestrian facilities).

It is noted that contributions for New Roads and Road Modifications are based on trip generation and not per capita demand. It is further noted therein that *Residential non-private dwellings such as institutions, hostels, boarding houses, nurses' accommodation, seminaries, boarding schools and the like will be assessed in accordance with the number of persons intended to be resident on the basis of one resident per bed as well as on their individual merits as presented in the Statement of Environmental Effects.*

Whilst the development falls under the general description of a 'hospital', the nature of the patients' stay will be such that there will be no demand on local parks, local sporting facilities or local recreational, cultural and social facilities.

As the inpatients will not have access to either private or public transport for the duration of their stay, and visitations restricted, additional daily traffic will be primarily limited to the additional nursing and administrative staff required for the new facility. This will be limited to a maximum of 9 nursing staff and 6 reception and administrative staff by day, reducing to a maximum of 6 nursing staff by night.

Under Section 1.26 of the Plan, Merit Exemptions can be availed of for certain developments. It is acknowledged therein that it is not always possible to identify in advance all developments which may be able to make a meritorious case for an exemption from the obligation to pay some or all of the applicable contributions.

While the proposed inpatient unit will not be on a 'not-for-profit basis', there are significant not-for-profit components of the development which nevertheless, provide an essential community benefit, as required by this section.

The Lawson Clinic has donated the use of the inpatient facility to the University of New South Wales (UNSW) for teaching and research purposes with such functions to be conducted by both UNSW and Lawson Clinic on a not-for-profit basis. This will enable UNSW to continue to progress and expand its cutting edge mental health research which has been stifled due to ongoing cutbacks to the tertiary sector.

The UNSW School of Psychiatry is widely reputed as the pre-eminent psychiatric research department in the country, and one of the leading university psychiatry research groups internationally.

With depression identified as the world's second biggest cause of disability, there is an essential community benefit in facilitating ground breaking medical research, at a tertiary level, to understand what causes mental health problems and to find better ways to diagnose and treat them. New drugs, new ways to treat old and new illnesses, and new ways to prevent diseases in people at risk of developing them, can only result from medical research.

The Lawson Clinic has a strong track record in conducting medical research on a not-for-profit basis in collaboration with the NSW Government funded Black Dog Institute (BDI) and UNSW. Neither the Lawson Clinic nor Lawson Clinic staff are remunerated for their research input.

There is a further essential community benefit generated by the tertiary level teaching and training of students or psychiatry trainees attached to Royal North Shore or Hornsby Hospitals. The Lawson Clinic has unique expertise in mental health. It is the only facility outside of the BDI which promulgates the BDI's treatment model. This model was the culmination of over 25 years research at Prince of Wales and Prince Henry Hospitals, Sydney by leading Australian psychiatrists and UNSW researchers. The application of the model results in a more accurate diagnosis of depressive subtype and enables greater specification in the selection of appropriate treatments. This in turn often generates better outcomes.

The inpatient facility will be utilized by UNSW and the Lawson Clinic to train trainees in this model. This is of significance given that trainees will ultimately apply this highly specialized training to the benefit of patients admitted to local public mental health facilities such as Royal North Shore or Hornsby Hospitals.

Further details of the not-for-profit activities of the development and essential community benefit generated, is outlined in the attached Lawson Clinic statement.

We submit that the distinct nature of the development is such that there are absolute meritorious circumstances that would distinguish the case of the subject development from any other, and which would prevent it setting a precedent for other exemptions.

It is, therefore, argued that the levies that relate to local parks and local sporting facilities; and local recreational, cultural and social facilities are not applicable.

Furthermore, the nature of the traffic generation which will result for the proposed facility is not compatible with the levies set out in the Summary of Contribution Rates Table in Part A which recommends assessing the levy in accordance with the number of persons intended to be resident on the basis of one resident per bed.

Having regard to this and the community benefit to be generated by the significant not-for-profit activities identified, Council is requested to exempt the proposed development from the payable of any Development Contributions under the Section 94 Plan.

4. Conclusion

Further to the above, detailed justification for the proposal was provided in the applicant's response letters dated 22 April 2014, 7 July 2014 and 4 September 2014. Overall, the proposal has undergone significant consultation with Council and redesign to resolve concerns raised, and the applicant has, over an extensive time period, continued to work in a collaborative manner for this project.


Overall, the facility has been designed to ensure that its long term operation offers community benefits and health services whilst not imposing on the privacy and amenity of the neighbouring properties. There are substantial public benefits offered by this proposal and ongoing efforts of the applicant have balanced the concerns of the community and Council with the stringent requirements of NSW Health. We recognise Council's direction to adhere to the numerical requirements as set out in their Development Control Plan,

however the design of a health services facility such as this is not aligned to the design requirements of a residential building.

Therefore, we wish to reiterate that in the context of this site and neighbouring community facilities and dwellings, that the siting, layout, form and massing of the built form is appropriate and fosters a facility which operates effectively without imposing on the privacy and amenity of the neighbouring residents.

We trust that the above advice assists in the final determination of the proposal. If you require any further clarification or details with regard to the above items, please do not hesitate to contact me on 8270 3500.

Yours Faithfully,

A handwritten signature in black ink, appearing to read 'Susan E Francis', with a stylized flourish at the end.

Susan E Francis

Executive Director

Attachments: Update:

Architectural Plans prepared by Elevation Architecture.

Landscape Plans prepared by Peta Gilliland Landscape Design.

Stormwater Plans prepared by AT&L (including confirmation that the adverse right angle bend will not affect 738).

Ravenswood letter of support for stormwater easement.

Traffic & Parking Analysis prepared by URaP-TTW, including turning paths and cross-sections of the driveways to demonstrate compliance with the relevant Australian Standards.

Statement regarding the different operational characteristics of mental health facilities in comparison to general medical or surgical hospitals by Dr G Galambos, Chair, Royal Australian & New Zealand College of Psychiatrists, NSW Branch.

Heritage Impact Statement prepared by NBRS + Partners.

BCA/Fire Safety Statement.

Revised Clause 4.6 Request to Vary a Development Standard prepared by City Plan Strategy + Development and dated November 2014.

Attachments re 744 Pacific Highway:

744 Concept Plans with right of way prepared by Elevation Architecture.

Legal advice addressing right of way prepared by Focus Legal.

744 Concept Plans with access directly off the Pacific Highway prepared by Elevation Architecture.

Evidence/Diary of attempts to purchase 744 prepared by The Lawson Clinic.

744 Valuation prepared by Richard Wood & Associates.

Letter of offer to the owner of 744 Pacific Highway, Gordon dated 20 November 2014.

Other:

Request for exemption from s94, based on details with regard to not for profit operations prepared by The Lawson Clinic.