

## JOINT REGIONAL PLANNING PANEL (Sydney West)

JRPP No	2013SYW094
DA Number	DA0327/13
Local Government Area	Ku-ring-gai
Proposed Development	Demolition of three dwellings at 742, 746 and 746A Pacific Highway. Construction of a 4 storey hospital with 65 beds. Boundary adjustment between 746 and 748 Pacific Highway. Consolidation of 742, 746 and 746A into a single allotment.
Street Address	742, 746, 746A and 748 Pacific Highway, Gordon
Lot & DP	Lot A DP350224, Lots 1 and 2 DP 851223 and Lot C DP337904.
Applicant	The Lawson Clinic Pty Ltd
Owner	Mr A Kapel and Mrs R Kapel, JSNL Pty Ltd, R I A F Pty Ltd
Number of Submissions	original proposal: 12 submissions and 1 petition amended proposal: 4 submissions
Regional Development Criteria (Schedule 4A of the Act)	The proposed hospital has a CIV of over \$5 million and falls into the category of 'private infrastructure and community facility'
List of All Relevant s79C(1)(a) Matters	SEPP 55 – Remediation of Land SEPP (Sydney Harbour Catchment) 2005 SEPP (Infrastructure) 2007 Ku-ring-gai LEP (Local Centres) 2012 Local Centres DCP Development Contributions Plan 2010
List all documents submitted with this report for the panel's consideration	Attachment A – Pre DA Meeting Report Attachment B – Council's letter to applicant dated 26 November 2013 Attachment C – Urban Design Consultant comments dated 12 December 2013 Attachment D – Urban Design Consultant comments dated 21 March 2014 Attachment E – Heritage Consultant comments dated 25 June 2014 Attachment F – Urban Design Consultant comments dated 23 May 2014 Attachment G – Clause 4.6 Variation Request Attachment H - architectural plans Attachment I - landscape plans Attachment J - stormwater plans Attachment K - valuation report dated 10 December 2013 Attachment L - Planning Consultant letter dated 22 April 2014
Recommendation	Refusal
Report By	Jonathan Goodwill – Executive Assessment Officer

### Assessment Report and Recommendation Cover Sheet

## Legislative requirements

<b>Zoning</b>	R4 High Density Residential under Ku-ring-gai LEP (Local Centres) 2013
<b>Permissible Under</b>	Ku-ring-gai LEP (Local Centres) 2012
<b>Relevant legislation</b>	Environmental Planning and Assessment Act 1979 SEPP 55 – Remediation of land SEPP (Sydney Harbour Catchment) 2005 SEPP (Infrastructure) 2007 Ku-ring-gai LEP (Local Centres) 2012 Local Centres DCP Development Contributions Plan 2010
<b>Integrated Development</b>	No

## PURPOSE FOR REPORT

To determine Development Application No. 0327/13 for the demolition of existing dwellings and construction of a hospital at 742-748 Pacific Highway, Gordon.

The Joint Regional Planning Panel (JRPP) is the consent authority as a hospital is a type of '*health related facility*' captured by the development category 'private infrastructure and community facilities' pursuant of Schedule 4A Clause 6 of the Environmental Planning and Assessment Act, 1979 and as the CIV for this development exceeds \$5 million (\$6.73 million).

## HISTORY

### Pre DA Meeting

On 17 May 2013, a Pre DA consultation to discuss a proposal for the construction of a hospital was held. The following concerns were identified by Council officers:

- isolation of 744 Pacific Highway Gordon
- non-compliant building height
- zone interface response (overshadowing, overlooking, visual bulk, articulation)
- inadequate setbacks
- landscaping issues (such as removal / protection of significant existing trees, 50% deep soil landscape provision, tree replenishment, side setback planting, landscaping between the development and heritage items, extent of cut and fill, communal open space)
- water management (no increase in surface water runoff into the Pacific Highway, water management plan addressing site detention, retention, re-use of roof water and water quality measures)
- traffic / parking and construction traffic management
- waste management
- heritage

The Pre DA report is **Attachment A**.

## Current development application

3 September 2013	Development application lodged
13 September 2013	Notification commences
26 November 2013	<p>Applicant is sent a letter advising that the application is unsatisfactory and that the following issues are required to be addressed:</p> <ul style="list-style-type: none"> <li>• overshadowing</li> <li>• site isolation and amalgamation</li> <li>• pedestrian access and equitable access</li> <li>• energy and water efficiency</li> <li>• use of 742 Pacific Highway</li> <li>• colours and finishes</li> <li>• heritage impacts</li> <li>• development engineering</li> <li>• landscaping</li> </ul> <p>Council's letter to the applicant is <b>Attachment B</b>.</p>
13 December 2013	The applicant is further advised that the issues identified by Council's Urban Design Consultant are required to be addressed. The full comments of Council's Urban Design Consultant are <b>Attachment C</b> .
13 December 2013	The applicant is advised that a response to the identified issues is required by 1 February 2014.
5 February 2014	The applicant advises Council that amended plans will be ready by 7 March 2014.
6 February 2014	JRPP briefing takes place
14 February 2014	The JRPP advises Council that the applicant should be afforded additional time to prepare the amended plans
4 March 2014	Meeting with applicant and Council officers.
5 March 2014	The applicant submits draft amended plans which include the demolition of the dwelling at 742 Pacific Highway, revised building footprint and a new car park at the southern end of the site.
18 March 2014	The comments of Council's Urban Design Consultant are sent to the applicant.
18 March 2014	In response to concerns regarding the legibility of the plans high resolution plans are sent Council's Urban Design Consultant for further review.
21 March 2014	Following a review of the high resolution plans revised comments from Council's Urban Design Consultant ( <b>Attachment D</b> ) are sent to the applicant.
28 April 2014	The applicant submits amended plans and additional documentation to Council.
1 May 2014	Notification of the amended plans commences
3 June 2014	The applicant is advised that the valuation report for 744 Pacific Highway is inadequate and that a revised report is required.
3 July 2014	The applicant is advised that the amended plans have been reviewed and issues relating to building height, site isolation, heritage, car parking, stormwater, inaccurate and inconsistent information still need to be addressed.

9 July 2014	The applicant provides a response to the issues identified in Council's correspondence and advises that the application will not be further amended. The issues identified in Council's letter along with the applicant's responses are provided below.
-------------	---

### **Issue 1: Zone Interface and building height**

The western elevation of the development has a length of approximately 60m, a height of more than 11.5m and a part 3/4 storey presentation. If the provisions of the Local Centres DCP were applied the development would be required to have a minimum setback of 6m for the first 3 storeys and 9m for the fourth storey. In addition, the façade would be required to be broken down into distinctive bays and wings through deep articulation. The design of the development does not have adequate regard to the zone interface principles established by the Land and Environment Court in *Seaside Property Developments Pty Ltd v Wyong Shire Council*.

The applicant's clause 4.6 variation request states that the second level is only provided for the northern portion of the development and does not impose on the adjoining R2 interface. This position is not supported as the southern part of the western elevation which faces the R2 zoned land has a 4 storey presentation, does not comply with the 11.5m height limit and is of greater height than the northern portion. The 4 storey portion of the development is visible from the private open space of 22 St Johns Avenue and 3 Bushlands Avenue and will have an overbearing impact on these R2 zoned properties. At the zone interface between R2 and R4 zoned land is it considered inappropriate and unacceptable for the eastern outlook from the private open space of two single dwellings to be dominated by a building elevation with a length of 60m and height of more than 11.5m.

The intent of the articulation to the western elevation should be to provide a built form which respects and relates to the characteristics of the adjacent R2 zoned land. The proposed articulation is shallow in depth and limited in width. This type of articulation does not relate to the form and proportions of development in the adjacent R2 zoned land.

The articulation of the western elevation should be amended. The indentation at Rooms 60 and 28/29 should be extended to include Rooms 26/27 and 58/59. To avoid a four storey presentation and non-compliant building height adjacent to the R2 zoned land Rooms 48/49 and 50/51 should be deleted.

### **Response from applicant's Town Planning Consultant**

*The majority of the development is 3 storeys in height and is significantly under the 11.5m height limit. The building is also articulated by virtue of physical attributes and material changes. The proposal addresses the zone interface principles as set out in Seaside Property Developments Pty Ltd v Wyong Shire Council with regard to building height (less than the control), meeting and exceeding the building setbacks and maintaining privacy of neighbouring properties through highlight and un-openable windows and privacy screening.*

*The subject site as Council is aware, is zoned R4 High Density Residential and the alternative redevelopment of this site for the purpose of a permissible residential flat building would reasonably envisage the whole western elevation of such a building to feature balconies at 6m separation up to 3 storeys in height.*

*Such a development would ultimately result in a four storey flat building pursuant to the 11.5 metre height limit. The proposal is far better in terms of amenity in comparison to such a development outcome. Should Council remain concerned with regard to the treatment of the western elevation, we recognise that Council may chose (sic) to impose a condition to delete what they consider to be the offending rooms or seek further articulation in specific terms as detailed in their correspondence dated 3 July 2014.*

*Any such condition can be eminently drafted to satisfy the Newbury Principles.*

## **Issue 2: Overshadowing**

The plan details for the dwelling at 22 St Johns Avenue are incorrect. The areas between the eastern wall of the dwelling and the shared boundary and the northern wall of the dwelling and the detached garage are paved. These paved areas are of a consistent level which is slightly lower than the floor level of the ground floor of the dwelling. The plans, sections and shading plans which show these areas as sloping and higher than the floor level are not correct.

The shading plans are not in consecutive order and the various angles of view makes comparisons between the drawings difficult. The windows of the dwelling at 22 St Johns Avenue are not shown. Accurate plans which show the existing and proposed shading are required.

### **Response from applicant's Town Planning Consultant**

*The shadow diagrams were prepared in lieu of survey plans of No. 22 St Johns Avenue and are based on observation only. At the eastern boundary of No. 22 St Johns Avenue, the proposal is notably under the permissible height limit and provides between 6m – 6.9m boundary setbacks. Therefore, the resulting shadow impacts are less than what would result for a compliant residential flat building. The demonstration of further shadow diagrams in this case would not be warranted nor of determining weight and the 3D shadow diagrams provide a representation of the shadow impacts which would result; being less than anticipated by the controls.*

## **Issue 3: Site isolation and amalgamation**

The issues regarding the concept plans for a residential flat building at 744 Pacific Highway remain unresolved as they do not demonstrate that the allotment can be redeveloped without reliance on a right of carriageway through 742 Pacific Highway. The assertion that the site can be developed as a residential flat building with vehicle access to the Pacific Highway should be supported by revised concept plans.

The issues identified in Council's e-mail of 3 June 2014 regarding the adequacy of the valuation are also required to be addressed.

### **Response from applicant's Town Planning Consultant**

*We have demonstrated that No. 744 Pacific Highway is not isolated having regard to the relevant Planning Principles and the DA was accompanied by plans and a property valuation which supported the potential to redevelop No. 744 Pacific Highway for a residential flat building. This design proposal was accompanied by an offer of a right of way easement which permits access to No. 744 Pacific*

*Highway via the subject site's driveway. Should Council feel that it's appropriate, this right of way can be conditioned accordingly.*

*Given we have demonstrated that the site is not isolated, there is no further requirement for revised concept designs or valuations of No. 744 Pacific Highway.*

*The items raised with regard to heritage were previously addressed in our DA and further response submitted in April 2014. We disagree with the points raised as per our previous correspondence.*

#### **Issue 4: Heritage concerns**

The following issues identified by Council's Heritage Consultant are required to be addressed:

- It is recommended that the development be amended to move the footprint of the new building further to the south in order to provide complying setbacks and stepping of built forms as required by the DCP.
- The setbacks from St Johns Church and Cemetery, although slightly greater under the amended proposal, could be extended still further. This would also allow more space for substantial trees and deep planting to help minimise the impact of the proposed development on views over and from the Cemetery in particular. It would also improve usability and amenity of open spaces for users of the hospital.
- Increasing the footprint (or potentially splitting the footprint into several smaller blocks to reduce the monolithic qualities of the scale and form) over a wider area would potentially allow the overall height of the development to be reduced to two levels above natural ground level. If this is not a practical outcome given the functional requirements of the facility, the bulk of the development could be located closer to the south-eastern part of the site adjacent to other (non heritage listed) properties that are also zoned for high-density residential development and which are therefore not as vulnerable to the environmental and heritage impacts caused by large differences in building scale and form.
- Further details should be provided to clarify the details of the proposed landscaping (including trees proposed to be removed) and splay corner to the street elevation of 748 Pacific Highway.
- The issue of potential psychological conflict caused by the proximity of the hospital to the cemetery needs to be considered very carefully as the proposal should not unduly restrict the existing cemetery use.

Other design details:

- Species selection both in front of 748 Pacific Highway and along the boundary with St Johns: the Alexandra Palms shown in the plans will provide no effective screening and will not be appropriate in immediate proximity to the two heritage items. They should be replaced by more suitable species in consultation with Council's landscape officers.
- Tonally neutral colours and non-reflective finishes should be required to the eastern and northern elevations in particular to minimise the visual prominence of the development in views to, from and over adjacent heritage items.

- All driveways and parking areas surrounding 748 Pacific Highway should be finished in dark asphalt to minimise their aesthetic impact on the setting of the heritage item.

### **Response from applicant's Town Planning Consultant**

*The site is zoned R4 High Density Residential and contains a heritage item. This zoning and the relevant controls therefore confirm that Council has accepted that the redevelopment of this site is capable of accommodating a residential flat building in association with a heritage item with building separation which is also reflected in this DA. Given Council has directed such a form of development, the proposal for this development is in keeping with the allowable built form outcome which is proposed.*

*The Heritage Consultant has also raised issue with regard to the 'potential psychological conflict' of the cemetery. This item is beyond the technical skills of the Council to make any comment.*

*With regard to the further design details raised, if Council considered it appropriate, these items can readily be conditioned.*

### **Issue 5: Development engineering concerns**

Council's Development Engineer has reviewed the amended application. The following additional information is required:

- The rainwater tank should be sized in accordance with the ESD report, and shown on all the plans to scale (not over a proposed pathway). The proposed re-use of the rainwater is to be indicated on the stormwater plans.
- Connection of the interallotment drainage pipe to the existing pit within 738 Pacific Highway via an adverse right angle bend may affect that property's stormwater drainage system and may not function hydraulically. The applicant should investigate whether a separate kerb connection, in line with the interallotment drainage pipe, should instead be provided.
- For further consideration of the parking reports, a breakdown of staff into outpatient and hospital staff is required. This does not guarantee that the shortfall will be supported. It appears that there would be space under the northern wing of the new hospital building for additional parking.
- Cross-sections of the new driveway are required, showing existing and proposed levels, crossfall, walls and fences, the neighbour's encroaching roof and the actual proposed width of the driveway (the photomontage seems to show vegetation being retained which will probably be removed). A minimum width of 5.5 metres is required for two way movement.
- The photomontage does not show the splay on the driveway at the front boundary, but it is shown on the landscape plan. It is unclear whether the splay will be provided and if it will affect trees at 748 Pacific Highway.

### **Response from applicant's Town Planning Consultant**

*Several items have been raised with regard to the size of the rainwater tank. The interallotment drainage pipe features a bend which does not have adverse affects on the main system and the proposed driveway is capable of appropriate width and design which is compatible with the adjoining structures, etc.*

*The proposed access and parking arrangement is supported by a report prepared by URaP-TTW which confirms that the parking provision is suitable for the proposed use and there is no shortfall in parking. Should Council feel that an additional space is preferable under the northern wing, this can be conditioned appropriately.*

## **Issue 6: Landscaping concerns**

### **Inadequate deep soil landscape area within the development including along the northern and western boundary and along eastern elevation**

In consideration of the merit of the deep soil that has been provided, the following modifications are required:

- To achieve an effective landscape treatment that will contribute to the garden character of the Heritage Conservation Area, protect neighbour amenity and preserve heritage significance, the building setback at the north-west corner of the building should comply with the 6 metre setback. Paving and pergola should be reduced to optimise deep soil provision and canopy establishment at the northwest corner of the site.
- To retain and enhance the heritage setting of the existing Lawson Clinic, the reconfiguration of the lot boundaries should include a redesign of the rear carpark providing additional sufficient areas for tree and shrub planting along the eastern elevation of the proposed building.

### **Adverse tree impacts (Clause 5.9 Local Centres LEP)**

Tree 9/ *Syagrus romanzoffiana* (Cocos Palm). This tree is located on the southern side of the existing driveway, within the adjoining property. The proposed driveway widening and retaining wall will encroach within the tree protection zone. The proposed retaining wall construction is likely to have an adverse impact on this tree.

### **Adverse impacts on neighbour amenity (Part 1.3 Volume C Ku-ring-gai Local Centres DCP)**

To preserve neighbour amenity, increased setbacks to the proposed driveway should be provided to the adjoining property 744 Pacific Highway.

### **Inadequate landscape plan**

The Landscape plan is unsatisfactory for the following reasons:

- Existing screen planting located along the western boundary should be retained where possible including along the northwest corner of the site. Additional hedging that can attain 4 metres in height should be provided at the northwest corner of the site in association with the existing *Tibouchina*.
- An accessible principal area of communal area has not been proposed. It is unclear whether the proposed area is accessible as insufficient levels to paths and associated external areas have been provided on the landscape plan. The series of ramps on the western side of the existing dwellings is approximately 1 metre below the carparks. Similarly the levels for the ramp between the



carpark and the dwelling at 742 Pacific Highway appear to be too steep and are likely to require steps.

- Details of screen wall fencing along western boundary are required.

### **Response from applicant's Town Planning Consultant**

*The amended landscaping proposal was prepared in close consultation with Council's Landscape Officer. The western setback of minimum 6m provides sufficient width to accommodate extensive landscaping with natural soil beneath. The northern setback has a minimum setback width of 4.2m which increases up to 6m also with natural soil beneath. Furthermore, the existing op-shop structure located on the adjoining heritage property to the north has no openings to the shared boundary, with reasonable building separation to the proposal. These boundary setbacks therefore provide eminent space for landscaping.*

*The landscaping treatment along the eastern side of the development provides for the embellishment of this facade through the utilisation of pockets of landscaping as well as a mix of planting and a vertical garden to create a trellised green wall effect.*

*Overall, the landscaping treatment creates an interesting mix of shrubs and tree planting which supports the mix of architectural articulation and material changes of the development.*

### **Adverse tree impacts**

*Should Council feel it necessary, the driveway treatment in the vicinity of the Cocos Palm (Tree 9) can be conditioned as appropriate to ensure the trees retention. Alternatively, Council could allow removal (and replacement) of the tree.*

### **Driveway setback**

*The proposed new driveway along the northern boundary of No. 744 Pacific Highway is an existing circumstance. This driveway is anticipated to accommodate a minor traffic increase in comparison to the existing conditions. The proposed driveway treatment is considered to not unreasonably impact on the neighbouring property, which is sought to be supported.*

### **Landscape plan**

*The items raised by Council are capable of being resolved by conditions of consent, should Council feel it appropriate.*

## **Issue 7: Urban design concerns**

The following issues identified by Council's Urban Design Consultant are required to be addressed:

### **Built form**

Demolition of 742 Pacific Highway should have presented opportunities to better arrange the massing such that deep articulation of the western elevation in particular would communicate a rhythm that interprets the existing urban context

of smaller scaled residential building, separated by generous landscape of established gardens of trees and large plant species. Instead, the built form has been articulated superficially and still reads as a single massing and out of scale in an interface context – being over 60 metres long. The stepping has been expressed by changes in materials that assist in the architectural expression of the built form, however, of itself do not provide the overall physical relief of deeply articulated massing. The western side of the building should be more deeply articulated so that the scale of proposed massing provides a better interface with the adjoining R2 zone and the St Johns Heritage Conservation Area.

The articulation of the northern façade is arbitrary and not a cohesive design response to the site and neighbouring built form. Within a clearly articulated form, the architectural expression should demonstrate a grouping of architectural elements that is rational, consistent and communicates a cohesive architectural language across the proposed development.

The type of construction selected to deal with the poorly resolved floor levels to ground levels at the southern end of the proposed development needs to be reconsidered. The Car Park/Drop Off level sees a series of columns up to a height over 4.3 metres out of the ground to support the suspended slab. This structural order and structural language bears no relationship to the structural language and order of the northern component. Rather it serves to emphasise the poor resolution of the ground floor level with the existing and proposed ground levels.

### **Setbacks**

Setbacks to the northern boundary remain insufficient at 4 metres. The need to provide for patient safety by limiting or preventing access to outside areas is not at question being an operational aspect of the development. At issue is the proposed setting of the proposed built form in achieving the KLEP and KDCP objectives, the provision of a pleasant landscape outlook to and from the subject site. A setback of 6 metres to the northern boundary is capable of being achieved by the development and should be provided.

### **Inconsistent or poorly coordinated ground levels**

RLs at the Lower Car Park level require clarification. They appear to be approximately 0.56m higher than the internal floor level of the building and therefore not compliant with BCA access requirements.

Notations for existing and proposed ground levels are confusing. These are to be consistently represented and clearly identified. Natural ground level should be shown on all sections. Natural ground levels at the face of the building should be shown on all elevations.

### **Landscape**

RLs on landscape plans are inconsistent with architectural plans in places, the numbers of risers of stairs do not seem to match some levels and the labelling of proposed and existing ground and path levels is unclear.

The following information is required to fully assess the relationship of the proposed landscape to the proposed building:

- All existing and proposed RLs are to be clearly annotated and differentiated.
- Contours are to be clearly indicated.
- All bottom and top of wall RLs are to be accurately located and checked\*
- All external stair flights are to be numbered for identification

\* For example, there is ambiguous information regarding top of wall levels at the truck turning area. It appears the TOW annotated as RL124.50 is the proposed ground level of the turning area. The TOW height needs to indicate a height and fence construction that will prevent trucks reversing over the platform and dropping some 2 metres to the lower car park level.

The landscape zone separating the truck turning area and No 744 needs to demonstrate that adequate width is provided to enable appropriate planting to screen the raised platform of the truck turning area - which appears to be over 1.5 metres out of the ground and, with a required solid barrier above, will impact upon the visual amenity of the current resident and future residents of that site should it be redeveloped as RFBs.

Pedestrian and vehicle ramps are to indicate the direction of ramp up and nominate all gradients.

There's a missing gradient at the main entry pedestrian ramp.

The main pedestrian ramp appears to rise from RL 127.85 at northern car park landing near Windsor House to RL128.15 at the NE corner of the proposed hospital then fall to RL127.50 at main building entry. This appears to be unnecessary as the high point does not link to any other levels.

### **Fire stairs**

Fire Stairs do not indicate direction of stair or breaks between levels.

Fire Stair 3 risers indicate the same number of risers between the Lower Ground and Ground Floor levels as between the Ground Floor and First Floor despite the floor having different ceiling heights. Stair design for the first floor and ground floor are the same despite the first floor not sitting below another floor.

The lift at the southern end appears to offer the only means of entering the building from the lower car park. Provision of stair access for staff from the lower car park should be considered.

### **Car parking**

The functioning of the basement car park is confusing. Labelled as 'Staff and Delivery Carpark' there appears to be no visitor parking now provided apart from the existing Lawson Clinic. The building entry at this level is also annotated as 'Staff and Emergency Entrance Only'. The southern end of the building at this level appears to be for staff access only as well limiting visitor entry to the ground level only. Therefore, the amount and location of visitor car parking and pedestrian access of visitors from the basement car park to the building entry is confusing and unclear.

The site rationale that proposes a semi-surface level car park accessed from the higher point on the site results in difficulties for the southern component of the

building in its relationship to the ground levels, and flow-on inefficiencies of the functionalities. It may be possible for a basement car park to be accessed from the lower southern driveway connecting to a continuous ramped driveway that exits from the higher point. This would make better use of the wasted space currently below the Car park/Drop Off level, better separate the staff and visitor/patient access once that has been clarified and accommodate additional spaces if required.

The levels for the truck turning area are inconsistent between the floor plans and the elevations. The height and material for the barrier on the southern and eastern side of the turning area is not clearly identified on the plans.

### **Response from applicant's Town Planning Consultant**

*As an outcome of the urban design comments, Council's primary concern with regard to the western elevation is contained within Point 1, and is addressed above.*

### **Ground levels**

*With regard to the finished levels of the proposed development, please refer to the Elevation Plans (DA-03.01 and DA-03.02). The Lower Ground Level has a proposed RL 124.5. The Ground Level has a proposed RL 127.2. The proposed RLs and levels provide a cohesive development outcome which are coordinated and result in a suitable built form and landscaped outcome.*

### **Landscape and fire stairs**

*The issues raised in relation to RLs, landscaping and risers of stairs are BCA related matters and can be appropriately conditioned to comply with the issue of the relevant Construction Certificate.*

### **Car parking**

*As discussed with Council in our meeting held on 7 March 2014, the proposed car parking arrangement serves the needs of staff, vehicles and servicing of the development, and appropriate way finding signs can be implemented which direct persons to the appropriate locations.*

### **Summary**

The applicant has been advised of the issues with the proposal and the amendments and additional information required. The applicant has declined Council's offer to submit an amended proposal and has asked that the application be determined in its current form.

### **THE SITE**

Zoning	R4 High Density Residential
Height	11.5m
Floor space ratio	0.8:1
Site area	4715m <sup>2</sup>
Easements/rights of way:	Easement to drain water and reciprocal rights of carriageway over the access handle of 746 and 746A

Heritage Item:	Pacific Highway.
Heritage conservation area:	Yes: 748 Pacific Highway
In the vicinity of a heritage item:	Yes: St Johns Avenue Conservation Area
	Yes: 750-754 Pacific Highway, 24 St Johns Avenue, 738 Pacific Highway, 707 Pacific Highway
Bush fire prone land:	No
Endangered species:	No
Urban bushland:	No
Contaminated land:	No
Biodiversity land:	No
Riparian land:	No

## THE SITE AND SURROUNDING AREA

<b>DESCRIPTION OF THE SITE AND ITS LOCATION:</b>	The site is located on the high side of the Pacific Highway and has an irregular shape. The site is comprised of the heritage listed building at 748 Pacific Highway which is currently used as the Lawson Clinic outpatient facility and three battleaxe allotments known as 746, 746A and 742 Pacific Highway. Each battleaxe allotment contains a dwelling-house. The adjoining allotments to the west are 22 St Johns Avenue and 3 Bushlands Avenue. These allotments contain single dwellings and are zoned R2 Low Density Residential.
<b>TOPOGRAPHY (SLOPE) OF THE SITE:</b>	The site falls from north to south and from east to west.
<b>SIGNIFICANT FEATURES ON THE SITE:</b>	The site contains three dwelling-houses and a heritage listed building that is used as the Lawson Clinic outpatient facility.
<b>CONTEXT OF THE SITE AND SURROUNDING DEVELOPMENT:</b>	The site is located in a predominantly residential area. To the north and north-west of the site is 750-754 Pacific Highway, this site is heritage listed and contains a church, church hall and cemetery. The adjacent allotment to the west and south of the site contain single dwellings.

## THE PROPOSAL

The proposal is for the demolition of existing structures and the construction of a hospital with 65 beds and 19 car spaces. The hospital is to operate in conjunction with the existing Lawson Clinic outpatient facility located at 748 Pacific Highway Gordon. Details of the proposed development include:

- i. Demolition of three dwellings at 746, 746A and 742 Pacific Highway.
- ii. Construction of a 3-4 storey hospital building with 65 beds, car parking for 19 cars. The hospital is to be used to provide treatment for people with mood and anxiety disorders.
- iii. The hospital is an inpatient facility and will operate 24 hours a day, there will be a maximum of 25 staff during the day time shift and 10 staff at night.

- iv. Retention of the existing Lawson Clinic premises at No. 748 Pacific Highway with vehicular access via the northern access handle, a reconfigured car park with 12 spaces and a new pedestrian access path for the hospital adjacent to the northern boundary.
- v. Modification of northern access handle to provide a two way driveway to the site from the Pacific Highway.
- vi. Removal of 17 trees from the site.
- vii. Associated landscaping works.
- viii. Creation of an easement through 738 Pacific Highway for disposal of stormwater into the street gutter of Bushlands Avenue.
- ix. Identification signage for the driveway at No. 746 Pacific Highway;
- x. The consolidation of Lot 1 DP 851223, Lot 2 DP 851223 and Lot C DP 337904) into a single lot and the realignment of the boundary of Lot A DP 350224 to result in two lots of 3,406m<sup>2</sup> and 1,309.6m<sup>2</sup>, respectively.

## **COMMUNITY CONSULTATION**

In accordance with the requirements of the Local Centres DCP, owners of surrounding properties were given notice of the application. In response, Council received one petition with 110 signatures and twelve submissions from the following:

- 1. In Shik Hong – 22 St Johns Avenue Gordon
- 2. Jingchun Gao – 1 Bushlands Avenue Gordon
- 3. Chao-Hsiang Wang – 3 Bushlands Avenue Gordon
- 4. Gerald Rousseau – 5 Bushlands Avenue Gordon
- 5. Michael Coates – 15 Bushlands Avenue Gordon
- 6. Jerome Lander – 7A Bushlands Avenue Gordon
- 7. Stephen Dwyer - 4 Oberon Crescent Gordon
- 8. Dan Guenther and Megan Luke-Guenther - 1 Oberon Crescent Gordon
- 9. Amy – 29 St Johns Avenue Gordon
- 10. Ms Vicki Steer (Principal Ravenswood) – Henry Street Gordon
- 11. Michael Kocsard – 744 Pacific Highway Gordon
- 12. Suzanne Pegg – 9 Bushlands Avenue Gordon

The submissions and petition raised the following issues:

### ***The proposal does not address site isolation principles***

For the reasons discussed elsewhere in this report, it is considered that the development does not adequately address the land amalgamation requirements in the Local Centres DCP and the site isolation planning principles established by the NSW Land and Environment Court.

### ***Overlooking***

Overlooking from the western elevation of the hospital has been minimised through high set windows and louvre screens. The overlooking impacts of the development are now considered to be acceptable.

### ***Overshadowing***

The shadow diagrams submitted by the applicant are inaccurate, poorly labelled and

not based on survey data of the impacted sites. The shadow diagrams do not clearly illustrate the impact of the development on the solar amenity of adjacent properties.

***The justification for the non-compliant building height fails to consider alternative design options and additional overshadowing***

For the reasons discussed elsewhere in this report, it is considered that the applicant's request under clause 4.6 to vary the building height development standard is not well founded.

***Excessive bulk***

For the reasons discussed elsewhere in the report, it is considered that the design of the western elevation does not successfully break down the building mass and has an unacceptable impact on adjacent properties which are zoned R2 Low Density Residential.

***Tree removal***

The merits of the proposed tree removal have been considered by Council's Landscape Officer and found to be acceptable.

***Inadequate setbacks and unacceptable impacts on heritage items***

Concerns regarding the setbacks from boundaries, separation distance from heritage items, ability for the development to provide screening vegetation and materials selection have been identified in the assessment of the application by Council's Heritage Consultant. The impact of the development is unacceptable in this regard and these issues are among the reasons for the refusal recommendation.

***Noise***

If approval of the application was recommended the likely noise impacts of the development could be addressed through conditions.

***The proposal is incompatible with residential zoning***

The development is permissible under the provisions of SEPP (Infrastructure) 2007, however it is considered that the development fails to appropriately manage the change in character and bulk/scale at the zone interface with adjacent R2 Low Density Residential zoned land.

***Inadequate outdoor recreation space for patients***

The planning controls do not include an outdoor recreation space requirement for hospitals.

***Inappropriate location due to noise and fumes from the Pacific Highway***

The hospital is set back from the Pacific Highway and unlikely to be impacted by vehicle emissions. If approval of the application were recommended, the impacts of traffic noise could be addressed through conditions.

***Inadequate car parking***

The number of car spaces provided for the development is significantly less than the requirements of the Local Centres DCP. The variation to the parking controls has not been adequately justified and is not supported.

***Unsafe driveway design***

Council's Development Engineer has identified concerns with the design of the proposed northern driveway, in particular, whether the required width for two-way vehicular traffic can be achieved having regard to existing encroachments and proposed retaining walls and fencing. A cross section of the driveway was requested from the applicant but has not been provided.

***Increased potential for traffic accidents on the Pacific Highway***

The application was referred to Roads and Maritime Services for comment, who advised that the proposal was acceptable in this regard, subject to conditions.

***The use of Henry Street and Cecil Street for construction vehicles is unsafe as these streets are regularly used by school children***

If approval of the application were recommended, a condition of consent could be imposed which restricted the use of Henry Street and Cecil Street to outside school drop-off and pick-up times.

***The use of the hospital to provide psychiatric services will present a security risk to adjacent dwellings***

The use of the site as a hospital is permissible under the provisions of SEPP (Infrastructure) 2007. It is considered unlikely that the type of services offered at the hospital will present a security risk to adjacent dwellings.

**AMENDED PLANS**

The amended plans submitted were notified for 14 days from 1 May 2014 to 15 May 2014. In response, Council received four submissions from the following:

1. In Shik Hong – 22 St Johns Avenue Gordon
2. Chao-Hsiang Wang – 3 Bushlands Avenue Gordon
3. Michael Coates – 15 Bushlands Avenue Gordon
4. Gerald Rousseau – 5 Bushlands Avenue Gordon

The submissions raised the following additional issues:

***Landscaping adjacent to the western boundary should be retained***

If the application were to be recommended for approval the retention of existing landscaping adjacent to the western boundary could be achieved through conditions of consent.

***Smoking should not be permitted***

The applicant has advised that the smoking will not be permitted at the hospital. Regardless of whether smoking will be permitted at the hospital, it is considered unlikely the smokers using the outdoor areas of the site which are set back from the



boundaries would be able to generate sufficient levels of second-hand smoke to have an impact on the amenity of adjacent dwellings.

***The boundary fence height should be increased by 2m***

The landscape plan shows the replacement of existing boundary fences with new 1800mm high lapped and capped timber fences. The replacement of boundary fences is subject to the provisions of the Dividing Fences Act and approval for replacement cannot lawfully be provided under a development consent unless consent from the owners of the existing fence is provided. If approval of the application were recommended, a condition would be imposed stating that the development consent does not grant approval for the replacement of boundary fences.

***Driveway access to the Pacific Highway is poor***

Council's Development Engineer has requested further details of the proposed development including the design of the driveways. The applicant has not provided the requested information. In the absence of sufficient information regarding the design of the driveway a conclusion regarding the adequacy of the driveway access and whether the required minimum width of 5.5m is achievable cannot be made.

***The setbacks from the side boundary are insufficient***

The proposal includes a car park and a driveway with side setbacks of 3m and 1.5m from boundaries to allotments which contain dwelling-houses. The setbacks do not provide sufficient space for landscape screening. The elevated driveway at the southern end of the building has a setback of 1.5m from the rear boundary of 744 Pacific Highway and is likely to have adverse acoustic impacts on this dwelling.

***Increased potential for accidents in the Pacific Highway***

The application was referred to the Roads and Maritime Services for comment. No concerns regarding increased potential for accidents in the Pacific Highway were identified.

**EXTERNAL REFERRALS**

**Roads and Maritime Services**

The proposal was referred to Roads and Maritime Services for comment. Roads and Maritime Services advised by letter, dated 30 September 2013, that subject to conditions, they had no objections.

**INTERNAL REFERRALS**

**Heritage**

Council's Heritage Consultant reviewed the application and provided the following summary of issues and suggested design changes. The complete Heritage Comments can be found at **Attachment E** to this report.

*Summary of issues*

- *It is recommended that the development be amended to move the footprint of the proposed building further to the south in order to provide complying setbacks and stepping of built forms as required by the DCP.*
- *The setbacks from St Johns church and cemetery, although slightly greater under the amended proposal, could be extended further. This would also allow more space for substantial trees and deep planting to help minimise the impact of the proposed development on views over and from the cemetery in particular. It would also improve usability and amenity of open spaces for users of the hospital.*
- *Increasing the footprint (or potentially splitting the footprint into several smaller blocks to reduce the monolithic qualities of the scale and form) over a wider area would potentially allow the overall height of the development to be reduced to two levels above natural ground level. If this is not a practical outcome given the functional requirements of the facility, the bulk of the development could be located closer to the south-eastern part of the site adjacent to other (non heritage listed) properties that are also zoned for high density residential development and which are therefore not as vulnerable to the environmental and heritage impacts caused by large differences in building scale and form.*
- *Further details should be provided to clarify the details of the proposed landscaping (including trees proposed to be removed) and splay corner to the street elevation of 748 Pacific Highway.*
- *The issue of potential psychological conflict caused by the proximity of the hospital to the cemetery needs to be considered very carefully by applicant as the proposal should not unduly restrict the existing cemetery use.*

*Other design details:*

- *Species selection both in front of 748 Pacific Highway and along the boundary with St Johns: the Alexandra Palms shown in the plans will provide no effective screening and will not be appropriate in immediate proximity to the two heritage items. They should be replaced by more suitable species in consultation with Council's Landscape Officers.*
- *Tonally neutral colours and non-reflective finishes should be required to the eastern and northern elevations in particular to minimise the visual prominence of the development in views to, from and over adjacent heritage items.*
- *All driveways and parking areas surrounding 748 Pacific Highway should be finished in dark asphalt to minimise their aesthetic impact on the setting of the heritage item.*

## **Urban design**

Council's Urban Design Consultant reviewed the application and provided the following comments. The complete Urban Design comments can be found at **Attachment F** to this report.

### ***Built form***

*Demolition of 742 Pacific Highway should have presented opportunities to better arrange the massing such that deep articulation of the western elevation in particular would communicate a rhythm that interprets the existing urban context of smaller scaled residential building, separated by generous landscape of established gardens of trees and large plant species. Instead, the built form has*

*been articulated superficially and still reads as a single massing and out of scale in an interface context – being over 60 metres long. The stepping has been expressed by changes in materials that assist in the architectural expression of the built form, however, of itself do not provide the overall physical relief of deeply articulated massing. The western side of the building should be more deeply articulated so that the scale of proposed massing provides a better interface with the adjoining R2 zone and the St Johns Heritage Conservation Area.*

*The articulation of the northern façade is arbitrary and not a cohesive design response to the site and neighbouring built form. Within a clearly articulated form, the architectural expression should demonstrate a grouping of architectural elements that is rational, consistent and communicates a cohesive architectural language across the proposed development.*

*The type of construction selected to deal with the poorly resolved floor levels to ground levels at the southern end of the proposed development needs to be reconsidered. The car park/drop off level sees a series of columns up to a height over 4.3 metres out of the ground to support the suspended slab. This structural order and structural language bears no relationship to the structural language and order of the northern component. Rather it serves to emphasise the poor resolution of the ground floor level with the existing and proposed ground levels.*

### **Setbacks**

*Setbacks to the northern boundary remain insufficient at 4 metres. The need to provide for patient safety by limiting or preventing access to outside areas is not at question being an operational aspect of the development. At issue is the proposed setting of the proposed built form in achieving the KLEP and KDCP objectives, the provision of a pleasant landscape outlook to and from the subject site. A setback of 6 metres to the northern boundary is capable of being achieved by the development and should be provided.*

### **Inconsistent or poorly coordinated ground levels**

*RLs at the lower car park level require clarification. They appear to be approximately 0.56m higher than the internal floor level of the building and therefore not compliant with BCA access requirements.*

*Notations for existing and proposed ground levels are confusing. These are to be consistently represented and clearly identified. Natural ground level should be shown on all sections. Natural ground levels at the face of the building should be shown on all elevations.*

### **Landscape**

*RLs on landscape plans are inconsistent with the RLs on the architectural plans in places, the numbers of risers of stairs do not seem to match some levels and the labelling of proposed and existing ground and path levels is unclear.*

*The following information is required to fully assess the relationship of the proposed landscape to the proposed building:*

- *all existing and proposed RLs are to be clearly annotated and differentiated*
- *contours are to be clearly indicated*

- all bottom and top of wall RLs are to be accurately located and checked\*
- all external stair flights are to be numbered for identification

\* For example, there is ambiguous information regarding top of wall levels at the truck turning area. It appears the TOW annotated as RL124.50 is the proposed ground level of the turning area. The TOW height needs to indicate a height and fence construction that will prevent trucks reversing over the platform and dropping some 2 metres to the lower car park level.

The landscape zone separating the truck turning area and No 744 Pacific Highway needs to demonstrate that adequate width is provided to enable appropriate planting to screen the raised platform of the truck turning area - which appears to be over 1.5 metres out of the ground and, with a required solid barrier above, will impact upon the visual amenity of the current resident.

Pedestrian and vehicle ramps are to indicate the direction of ramp up and nominate all gradients.

There's a missing gradient at the main entry pedestrian ramp.

The main pedestrian ramp appears to rise from RL 127.85 at northern car park landing near No 748 Pacific Highway to RL128.15 at the NE corner of the proposed hospital then fall to RL127.50 at main building entry. This appears to be unnecessary as the high point does not link to any other levels.

### **Fire stairs**

Fire stairs don't indicate direction of stair or breaks between levels.

Fire Stair 3 risers indicate the same number of risers between the lower ground and ground floor levels as between the ground floor and first floor despite the floor having different ceiling heights. Stair design for the first floor and ground floor are the same despite the first floor not sitting below another floor.

The lift at the southern end appears to offer the only means of entering the building from the lower car park. Provision of stair access for staff from the lower car park should be considered.

### **Car parking**

The functioning of the basement car park is confusing. Labelled as 'Staff and Delivery Carpark' there appears to be no visitor parking now provided apart from the existing Lawson Clinic. The building entry at this level is also annotated as 'Staff and Emergency Entrance Only'. The southern end of the building at this level appears to be for staff access only as well limiting visitor entry to the ground level only. Therefore, the amount and location of visitor car parking and pedestrian access of visitors from the basement car park to the building entry is confusing and unclear.

The site rationale that proposes a semi-surface level car park accessed from the higher point on the site results in difficulties for the southern component of the building in its relationship to the ground levels, and flow-on inefficiencies of the functionalities. It may be possible for a basement car park to be accessed from the lower southern driveway connecting to a continuous ramped driveway that exits from the higher point. This would make better use of the wasted space

*currently below the car park/drop off level, better separate the staff and visitor/patient access once that has been clarified and accommodate additional spaces if required.*

*The levels for the truck turning area are inconsistent between the floor plans and the elevations. The height and material for the barrier on the southern and eastern side of the turning area is not clearly identified on the plans.*

## **Landscaping**

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

### ***Deep soil landscape area (Part 7A.4 Volume A Ku-ring-gai Local Centres DCP)***

*The site area for the hospital is 3406m<sup>2</sup>. For a residential flat building 50% of the site (1703m<sup>2</sup>) is required to be deep soil landscaping. For the proposed hospital 25% of the site area (854m<sup>2</sup>) has been provided as deep soil landscaping.*

*The total site area is 4715m<sup>2</sup> and the site area for the purposes of the deep soil requirement is 4282m<sup>2</sup> as the access handles are not included. This generates a deep soil landscaping requirement of 2141m<sup>2</sup>. For the entire site 26.9% of the site area (1155m<sup>2</sup>) has been provided as deep soil landscaping.*

*The proposal provides 849-986m<sup>2</sup> less deep soil landscaping than a residential flat building development designed in accordance with the requirements of the Local Centres DCP. The majority of the deep soil will be located south of 742 Pacific Highway and in the front setback of 748 Pacific Highway.*

*On merit, the development should provide consolidated deep soil zones through careful planning and design, to provide landscaped areas that are appropriate to the scale and context of the development (Part 7A.4 Volume A Ku-ring-gai (Local Centres)DCP). It would appear that the inclusion of 742 Pacific Highway has not translated into significantly improved deep soil areas between the heritage item and the neighbouring dwelling at 22 St Johns Avenue.*

*The building setbacks to the northern boundary provides greater compliance and greater deep soil zones, however there are no trees proposed of a similar scale to the proposed building but this could be conditioned.*

*The proposed architectural screen along the western boundary of the proposed carpark is considered a structure that would prevent tree planting and conflict with the intent of the deep soil area landscape along the western elevation of the building. This should be deleted.*

*The proposal provides a vertical garden between the proposed building and the heritage item at 748 Pacific Highway. Details have not been provided, however it is assumed that the height of the green wall is approximately 3 metres as shown on the rendering (DA-05.09/DA2, Elevation). This will provide minimal landscape screening to a building that has a height of over 11.5m.*

### ***Tree Impacts (Clause 5.9 KLEP(Local Centres))***

An arborist report prepared by Landscape Matrix, dated 10/07/13, has been submitted. The landscape plan indicates two trees as Tree 1.

**Trees to be removed**

*Tree 1/ Pittosporum undulatum (Sweet Pittosporum). This tree is located on the front boundary of 748 Pacific Highway, within the heritage item. There is no objection to the tree's removal. Tree 1 identified on the landscape plan as located on the nature reserve is a mature Melaleuca quinquinervia (Broad-leaved Paperbark) that should be retained and protected.*

*Tree 2/ Pittosporum undulatum (Sweet Pittosporum). This tree is located on the front boundary of 748 Pacific Highway, within the heritage item. The tree exhibits poor health and vigour with high levels of dieback. There is no objection to the tree's removal.*

*Tree 3/ Grevillea robusta (Silky Oak). This tree is located on the southern boundary of 748 Pacific Highway, within the heritage item. The tree exhibits poor health and vigour with high levels of dieback. There is no objection to the tree's removal.*

*Tree 4/ Jacaranda mimosifolia (Jacaranda). This tree is located on the southern boundary of the driveway to 746A Pacific Highway. The tree is in good health, however its form is poor due to past pruning. There is no objection to the tree's removal.*

*Tree 5/ Cupressus macrocarpa 'Brunniana' (Golden Cypress). This tree is located on the southern boundary at the driveway entrance to 746 Pacific Highway. The multi trunked tree is a good specimen and is visually prominent. It has been assessed in the arborist report as having high landscape significance. The tree would have to be removed for construction access. As there is no other means of entering the rear of the site, there is no objection to the tree's removal.*

*Tree 6/ Jacaranda mimosifolia (Jacaranda). This tree is located at the driveway entrance to 746 Pacific Highway. The tree is a poor specimen having been severely pruned in the past. There is no objection to the tree's removal.*

*Tree 7/ Jacaranda mimosifolia (Jacaranda.) This tree is located at the driveway entrance to 746 Pacific Highway. The tree is a poor specimen having been severely pruned in the past. There is no objection to the tree's removal.*

*Tree 8/ Liquidambar styraciflua (Liquidambar). This tree is located within the rear yard of the heritage item at 748 Pacific Highway, adjacent to the driveway of 746A Pacific Highway. The tree has poor form due to being suppressed by a tree that has recently been removed. There is no objection to the tree's removal.*

*Trees 10-15/ Jacaranda mimosifolia (Jacaranda). These trees are located along the southern boundary of 746 Pacific Highway. The trees have all been poorly pruned in the past. There is no objection to the removal of these trees.*

*Tree 17/ Robinia pseudoacacia "Frisia" (Black Locust). This tree is located within the rear setback of 746A Pacific Highway. The tree exhibits poor health and is a poor specimen. There is no objection to the tree's removal.*

*Tree 19/ Jacaranda mimosifolia (Jacaranda). This tree is located along the eastern boundary of 746A Pacific Highway. The tree has poor form due to being*

suppressed by a tree that has recently been removed. There is no objection to the tree's removal.

Tree 22/ *Quercus robur* (English Oak). This tree is located along the northern boundary of 746A Pacific Highway. The tree is a poor specimen and approval to remove the tree is not required. There is no objection to the tree's removal.

Trees 23-24/ *Archontophoenix alexandrae* (Alexandra Palm). This group of small palms are located at the northeast corner of 746A Pacific Highway. The trees are to be removed to accommodate the building footprint. There is no objection to the removal of these trees.

Tree 25/ *Archontophoenix cunninghamiana* (Bangalow Palm). This palm is not identified on the landscape plan or the arborist's tree location plan. There is no objection to the tree's removal.

Tree 26/ *Cupressus torulosa* (Bhutan Cypress). This tree is located on the southern boundary of 742 Pacific Highway. The tree is of moderate health and poor vigour. There is no objection to the tree's removal.

### **Trees to be retained**

Tree 9/ *Syagrus romanzoffiana* (Cocos Palm). This tree is located on the southern side of the existing driveway, within 744 Pacific Highway. The proposed driveway widening and retaining wall will encroach within the tree protection zone. The proposed retaining wall construction is likely to have an adverse impact on this tree.

Tree 20/ *Magnolia x soulangiana* (Magnolia). This tree is located on the western boundary of the site. The proposed path is located 1.6m from the tree. The impact is considered acceptable.

Tree 21/ *Tiboucina granulosa* (Purple Glory Tree). This tree is located in the north-west corner of 746A Pacific Highway. The tree provides amenity to the adjoining heritage conservation area. The proposed paved area adjacent to the staff room is 3.5m from the tree. The impact is considered acceptable.

### **Landscape plan**

#### **Front setback (7A.1 Volume A Ku-ring-gai (Local Centres) DCP)**

The proposal will remove several trees and landscaping at the driveway entrance to the proposed development in order to widen the driveway from 3 metres to 6 metres. Additional trees located within the heritage item are to be removed to enable construction access to the site.

Two canopy trees and additional shrub planting are proposed to be planted on the northern corner of the driveway entrance as replacement planting.

#### **Driveway (1.3 Volume C Ku-ring-gai (Local Centres) DCP)**

The proposed driveway in the northern access handle will occupy the entire width of the access handle. Existing trees and hedge planting along the driveway will be removed for the driveway widening. This will result in inadequate landscape treatment to the driveway.

### **Cut and fill (Part 1.2 Volume C Ku-ring-gai (Local Centres) DCP)**

*The proposed driveway will require excavation to a depth of 1.2m. The carpark and loading area will require excavation to a depth of 2.5m excavation along the line of the existing carpark to the existing Lawson Clinic and fill to approximately 2 metres along the western boundary.*

### **Neighbour amenity (Part 1.2 Volume C Ku-ring-gai (Local Centres) DCP)**

*The site falls to the west and has views across the adjoining properties and distant views towards the blue mountains. Existing screen planting located along the western boundary should be retained where possible including along the north-west corner of the site. This can be conditioned.*

### **Heritage impacts - Development in the vicinity of a heritage item (7.3 Volume B Ku-ring-gai (Local Centres) DCP)**

*Impacts on setting of the existing Lawson Clinic*

*The enhancement of views of the heritage item from the south-east has been considered in the landscape design.*

*At the rear of the existing Lawson Clinic is an existing bitumen car park. The proposed boundary adjustment will reduce the site area along the rear boundary of the heritage item by 95.7m<sup>2</sup>. This area currently provides 1.5m landscape setback to the car park. Despite the proposed hospital being a significantly larger development than the existing dwelling-houses, the proposal provides minimal area for landscaping between the car park and the proposed building. A narrow planter bed (800mm) with groundcovers is proposed in association with a pergola to which climbers are to be fixed. Planter beds at the northern and southern end of the carpark, not directly behind the heritage building, are also proposed. The planter beds are an inadequate landscape treatment which fails to achieve an appropriate buffer between the heritage item and the proposed 3 storey building.*

### **St John's church and cemetery and the Heritage Conservation Area**

*The existing church buildings, cemetery and columbarium are in close proximity to the proposed development. The hall and the weatherboard building have little outlook to the site however they will be viewed with a backdrop of the proposed building. The view of the building is more prominent from the south-east corner of the cemetery and the southern end of the columbarium.*

*The proposed assorted planting along the northern boundary of shrubs are consistent with the horticultural style of the adjoining item. Three additional medium sized deciduous trees should be provided along this boundary. This could be conditioned.*

### **Stormwater plan**

*The proposed OSD tank has been relocated to within the new car park at the southern end of the hospital. The proposed easement for stormwater works within 742 and 738 Pacific Highway is likely to impact existing trees. An arborist report recommending thrust boring through this area has been provided. This could be conditioned.*



### ***Drawing inaccuracies***

*The photomontage of the northern driveway on DA-05.11 indicates planting to either sides of the driveway which cannot be provided as the new driveway is shown as the same width as the access handle on DA-01.01. There is no planting proposed in association with the existing driveway nor will any existing vegetation be retained.*

## **Engineering**

Council's Team Leader Engineering Assessment commented on the amended proposal as follows:

### ***Water management***

*It is now proposed to convey runoff from the development to Bushlands Avenue via a proposed easement through 1a Bushlands Avenue (Lot D DP337904). The written approval of the owner of that property to grant the easement has not been submitted, however the letter from CityPlan states that negotiations are underway, and it is noted that no submission has been received from that owner.*

*The arborist has advised that the installation of the interallotment drainage pipe can be by thrust boring. The plans show that it is proposed to connect the pipe to an existing pit within the neighbouring property, which requires an adverse right angle bend. This appears to be in order to avoid excavation into the steep nature strip in Bushlands Avenue. It would be necessary to confirm that the flow from the development would not cause the system within 738 Pacific Highway to surcharge. Otherwise a separate connection to the gutter should be provided, generally in line with the new pipe, with a bend at the kerb to direct flow in line with the gutter. It is expected that the owners of the neighbouring property will also require this as a condition of granting the easement. If the application were to be approved, a deferred commencement consent could be recommended, with the registration of the easement as the Schedule A condition.*

*The Stormwater Concept Plan shows an 8,000 litres rainwater tank on the western side of the building. The tank is located over a path and is not shown on the landscape plan. This size of tank generally has a diameter between 2 and 3 metres and there does not seem to be space between the path and the building for it. The ESD report states on page 6 that the rainwater tank size should be 10,000 litres, with re-use for irrigation. This should be stated on the stormwater plans as well. Since the ESD report has been prepared, the development should comply with it.*

*The size of the one site detention tank and the StormFilter water quality devices for pollution control are satisfactory. The MUSIC model output submitted demonstrates that Council's water quality targets will be met with the proposed system.*

### ***Traffic and parking***

*The traffic response again ignores the existing outpatient facility. However, a closer examination of the report and Section 2.6 of the Statement of Environmental Effects reveals that the staff numbers quoted are for both facilities,*

*so that calculating the parking requirement for the outpatient clinic based on the gross floor area would give an overestimate.*

*If a shortfall of parking is to be considered, it must first be quantified. Therefore a breakdown of staff numbers by outpatient clinic and hospital is required. This does not guarantee that the shortfall will be supported. It appears that there would be room under the northern wing of the new hospital building for additional parking spaces.*

*There appears to be a locked gate at the existing vehicular entry to the Lawson Clinic, which might explain why there are so many spaces free in the carpark during the day.*

*In comparison to the rates in Council's DCP, the formula given in the RTA (now Roads and Maritime Services) Guide to Traffic Generating Developments 2002, gives a parking requirement of 39 spaces just for the hospital (but using the total number of staff, so also an overestimate).*

*No sections have been provided of the main driveway as requested. Cross-sections are required to indicate the actual width proposed. The plans indicate a wall on either side, which is right up against the neighbour's residence, but no details have been provided for this wall. The landscape plan indicates a top of wall of RL 126.90 adjacent to the neighbour's house, with an 1800 mm high fence above the wall, however the neighbour's gutter is over the boundary at this location, at RL127.45, so the fence would clash with the neighbour's roof. The wall structure will restrict the available driveway width, so its dimensions need to be known. A minimum width of 5.5 metres is required for two way traffic in the driveway.*

*The driveway splay at the Pacific Highway is still shown on the landscape plan, but not elsewhere.*

### **Geotechnical investigation**

*The report is based on boreholes, and contains recommendations for vibration monitoring and dilapidation survey, excavation methods and support. The deep excavation adjoining the neighbour's house is no longer required. The recommendations of the report would be incorporated into conditions of consent if the application were to be approved. The concerns raised previously about groundwater are addressed.*

### **The following information is required:**

- i. The rainwater tank should be sized in accordance with the ESD report, and shown on all the plans to scale (not over a proposed pathway). The proposed re-use of the rainwater is to be indicated on the stormwater plans.*
- ii. Connection of the interallotment drainage pipe to the existing pit within 738 Pacific Highway via an adverse right angle bend may affect that property's stormwater drainage system and may not function hydraulically. The applicant should investigate whether a separate kerb connection, in line with the interallotment drainage pipe, should instead be provided.*
- iii. For further consideration of the parking reports, a breakdown of staff into outpatient and hospital staff is required. This does not guarantee that the*

*shortfall will be supported. It appears that there would be space under the northern wing of the new hospital building for additional parking.*

- iv. *Cross-sections of the new driveway are required, showing existing and proposed levels, crossfall, walls and fences, the neighbour's encroaching roof and the actual proposed width of the driveway (the photomontage seems to show vegetation being retained which will probably be removed). A minimum of 5.5 metres is required for two way movement.*
- v. *The photomontage does not show the splay on the driveway at the front boundary, but it is shown on the landscape plan. Is this splay to be provided, and will it affect trees on the heritage property?*

## **STATUTORY PROVISIONS**

### **State Environmental Planning Policy (Infrastructure) 2007**

The proposed application is subject to the requirements of SEPP infrastructure. Clause 57 (1) states that development for the purpose of health services facilities may be carried out by any person with consent on land in a prescribed zone. The R4 High Density Residential zone is specified as a prescribed zone in clause 56 'Definitions'. Clause 57 (4) states:

*(4) Nothing in this clause:*

*(a) prevents a consent authority from:*

- (i) granting consent for development on a site by reference to site and design features that are more stringent than those identified in a site compatibility certificate for the same site, or*
- (ii) refusing to grant consent for development by reference to the consent authority's own assessment of the compatibility of the development with the surrounding land uses, or*

*(b) otherwise limits the matters to which a consent authority may have regard in determining a development application for development of a kind referred to in subclause (2).*

The SEPP makes the ordinarily prohibited use of 'hospital' a permissible use. Clause 57 (4) (a) (ii) enables a consent authority to carry out an assessment of the compatibility of the development with surrounding land uses. The clause allows for the refusal of a development application which relies on the SEPP if the assessment finds that an appropriate standard of compatibility has not been achieved. In consideration of this requirement, the applicant's Statement of Environmental Effects contains the following comment:

*In this case, a site compatibility certificate is not required, therefore the assessment of the application will be guided by the consent authority's own assessment of the compatibility of the development with the surrounding residential and institutional land uses. Having regard to the development of the site for a hospital / inpatient unit in association with an established clinic on the same site, and the residential / low impact nature of the proposed development, it is considered that the proposal is compatible with the adjacent land uses.*

Further to this, the applicant's Statement of Environmental Effects contains an assessment of the proposal against the controls of the Local Centres DCP for residential flat buildings. Where the proposal does not comply with the design

controls justification for the variation has been provided. The Statement of Environmental Effects was prepared for the original development application and identifies non compliances with the design controls for setbacks and deep soil landscaping and compliance with the design controls for site coverage and number of storeys.

The following table provides an assessment of the amended proposal against the controls of the Local Centres DCP for residential flat buildings.

7A.1 Building setbacks		
A minimum side setback of 6m is required up to the fourth storey.	northern boundary: 4.2m	<b>NO</b>
	eastern boundary with 748 Pacific Highway: 2m	<b>NO</b>
	eastern boundary with 744 Pacific Highway: 7.2m	<b>YES</b>
	southern boundary: 29m	<b>YES</b>
Side setback areas behind the building line are not to be used for driveways or vehicular access into the building.	western boundary: 6m 3.2m setback to western side boundary shared with 22 St Johns Avenue	<b>YES</b> <b>NO</b>
	1.5m to eastern side boundary shared with 744 Pacific Highway	<b>NO</b>
7A.2 Building separation		
The minimum separation between residential buildings on the development sites and the adjoining sites must be:		
Up to 4 <sup>th</sup> storey 12m between habitable rooms/balconies 9m between habitable rooms/balconies and non-habitable rooms 6m between non-habitable rooms	>12m between western elevation and first floor windows of 22 St Johns Avenue	<b>YES</b>
7A.3 Site coverage		
The site coverage may be up to a maximum of 35% of the site area providing that the deep soil landscaping requirements in Part 7A.4 can be met.	38.2%	<b>NO</b>
Where a site incorporates an access handle the site coverage must not exceed 35% of the total site area less 35% of the access handle.		
7A.4 Deep soil landscaping		
Residential flat development must have a minimum deep soil landscaping area of 50% for	26.9% (entire site) 25% (hospital site only)	<b>NO</b> <b>NO</b>

a site area of 1800m <sup>2</sup> or more		
<p>Lots with the following sizes are to support a minimum number of tall trees capable or attaining a mature height of 13m on shale transitional soil and 10m on sandstone derived soils</p> <p>1200m<sup>2</sup> of less / 1 per 400m<sup>2</sup> of site area  1201-1800m<sup>2</sup> / 1 per 350m<sup>2</sup> of site area  1801m<sup>2</sup> or more / 1 per 300m<sup>2</sup> of site area</p>	<p>The site area is 4715m<sup>2</sup>. A minimum of 16 trees capable with a mature height of at least 13m are required, 10 trees are proposed.</p>	<b>NO</b>
At least 50% of all tree plantings are to be locally occurring trees and spread around the site.	At least 50% of the proposed tree plantings are locally occurring trees	<b>YES</b>
<b>7C.3 – Solar access</b>		
All developments must allow the retention of 3 hours sunlight between 9am and 3pm on 21 June to living areas and the principal portion of the private and communal open space of existing residential flat buildings and multi-dwelling housing on adjoining lots and any residential development in adjoining lower density zones	The shadow diagrams are not based on survey data and the perspective view format does allow for compliance with the design control to be determined.	<b>NO</b>
Developments must allow the retention of a minimum 4 hours direct sunlight to all existing neighbouring solar collectors and solar hot water services	No impact on neighbouring solar collectors and solar hot water services	<b>YES</b>
All developments must utilise shading and glare control	Shading devices have been provided.	<b>YES</b>
<b>7C.10 Building facades</b>		
Street, side and rear building facades must be modulated and articulation with wall planes varying in depth by not less than 0.6m. No single wall plane is to exceed 81m <sup>2</sup> in area.	100m <sup>2</sup> western elevation 90m <sup>2</sup> eastern elevation	<b>NO</b>
<p>The continuous length of a single building on any elevation must not exceed 36m. The length of a single building elevation facing the side or rear may exceed 36m providing that:</p> <ol style="list-style-type: none"> <li>1. The façade is recessed to an adequate depth and width to appear as distinctive bays or wings</li> <li>2. The recess is common area with landscaping which includes at least one medium tree with an 8m canopy diameter at maturity</li> </ol>	The western elevation has a length of 60m.	<b>NO</b>
<b>7C.11 – Building storeys</b>		
Sites with the following maximum building heights under the Ku-ring-gai LEP (Local Centres) are to have a maximum number of storeys above the basement as follows: 11.5m = 3 storeys	The site is subject to a height limit of 11.5m and the building has a height of 4 storeys (ref. Section HT5 on DA-05.04)	<b>NO</b>

14.5m = 4 storeys 17.5m = 5 storeys 23.5m = 7 storeys		
<b>7C.13 – Top storey design and roof forms</b>		
The gross floor area of the top storey is not to exceed 60% of the gross floor area of the storey immediately below.	59%	<b>YES</b>
The top storey of a building is to be set back from the outer face of the floors below on all sides (roof projection is allowed beyond the outer face of the top storey).	The top storey is set back at the southern side only.	<b>NO</b>
Service elements are to be integrated into the overall design of the roof so as not to be visible from the public domain or any surrounding development. These elements include lift overruns, plant equipment, chimneys, vent stacks, water storage, communication devices and signage.	The lift overruns have been adequately integrated into the design of the building.	<b>YES</b>
Roof design must respond to solar access, for example, by using eaves and skillion roofs.	The eaves of the skillion roof will provide sun protection to windows.	<b>YES</b>
<b>7C.15 – Visual privacy</b>		
Buildings must be designed to ensure privacy for residents of the development and of the neighbouring site. The use of offset balconies, recessed balconies, vertical fins, solid and semi-transparent balustrades, louvres/screen panels and planter boxes is encouraged.	Privacy screens and high set windows are proposed.	<b>YES</b>

The amended proposal does not comply with the following design controls:

- setbacks
- site coverage
- deep soil landscaping area
- number of canopy trees
- solar access (inadequate information)
- wall plane size
- building elevation length
- number of storeys
- top storey setbacks

In accordance with clause 57 (4) (a) (ii) of SEPP (Infrastructure) 2007 an assessment of the compatibility of the proposal with surrounding land uses has been carried out. The assessment is based on the existing and likely future character of the area having regard to zoning, development standards and the design controls of the Local Centres DCP. The following issues have been identified:

- i. The western elevation of the development has a length of approximately 60m, a height of more than 11.5m and a partial 4 storey presentation. For residential flat buildings and sites adjacent to a heritage item the Local Centres DCP does not permit elevations which exceed a length of 36m. Facades with a length of more than 36m are required to be broken down into distinctive bays and wings through deep articulation. The design of the western elevation should provide a built form which respects and relates to the characteristics of the adjacent R2 zoned land. The proposed articulation is shallow in depth and limited in width. This type of articulation does not relate to the form and proportions of development in the adjacent R2 zoned land.
- ii. The staff and delivery carpark has a side setback of 3.2m and includes a 20m long, 3m-5m high concrete wall on its western end that has a setback of 2m from the boundary with 22 St Johns Avenue. The wall is adjacent to the private open space of this dwelling-house. The wall and carpark significantly compromises the ability to provide landscape screening to the western elevation. The height of the wall, at more than 5m above the ground level of 22 St Johns Avenue at its southern end is considered excessive and uncharacteristic of the area. The wall would have a significant adverse impact on the amenity of 22 St Johns Avenue as its height, length and minimal setback results in a visually dominant structure that is inappropriate in a residential setting.
- iii. The driveway between the southern end of the eastern elevation and the rear boundary of 744 Pacific Highway has a surface level that is up to 1m higher than the existing ground level and a 1.5m setback from the rear boundary of 744 Pacific Highway. The elevated position of the driveway is likely to adversely impact the acoustic amenity of 744 Pacific Highway. The 1.5m setback from the rear boundary will prevent the establishment of screening vegetation in scale with the building. The proposed driveway will compromise the landscape setting and have an unacceptable impact on the amenity of 744 Pacific Highway.
- iv. The proportion of the site area that is deep soil landscaping is approximately half that required for a residential flat building. Dwelling-house development in the adjacent R2 Low Density Residential zone is required to have a minimum landscaped area of between 40-50% of the site area and it is considered that existing development on adjacent sites would exceed these requirements. Allotments with a high proportion of hard surfaces and minimal landscaping are not characteristic of the subject R4 High Density Residential zone, the adjacent R2 Low Density Residential zone and the St Johns Avenue Conservation Area to the north-west. The quantum of deep soil landscaping results in significantly fewer canopy trees than the number required for a residential flat building on an equivalently sized site. In consideration of the merits of the landscape proposal it is noted that inadequate building, driveway and car park setbacks do not allow for suitable landscape screening of the northern, eastern and western elevations. The landscaped character of the development is inconsistent with the existing and desired future character of the area.

## **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 has a frontage to the Pacific Highway which is a classified road, however the proposed hospital building has a significant setback from the road corridor. The proposed development is considered to be largely consistent with the above requirements. The proposal does not create any new vehicular access points and will rely on existing access handles. It is noted that the RMS did not raise an objection to the proposal.

Clause 102 'Impact of road noise or vibration on non-road development' applies to development for the purposes of a hospital but only if the consent authority considers that the development is likely to be adversely affected by road noise or vibration. As the proposed building has a significant setback from the road corridor, it is unlikely to be adversely affected by road noise or vibration.

## **State Environmental Planning Policy No. 55 - Remediation of Land**

The provisions of SEPP 55 require consideration of the potential for a site to be contaminated. The proposed hospital is located on three allotments which currently contain dwelling-houses. The subject sites have a history of residential use and, as such, are unlikely to contain any contamination.

## **Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005**

SREP 2005 applies to the site as the site is located in the Sydney Harbour Catchment. The Planning Principles in Part 2 of the SREP must be considered in the



preparation of environmental planning instruments, development control plans, environmental studies and master plans. The proposal is not affected by the provisions of the SREP which relate to the assessment of development applications as the site is not located in the Foreshores and Waterways Area as defined by the Foreshores and Waterways Area Map.

## **Ku-ring-gai LEP (Local Centres) 2012**

### **Zoning and permissibility:**

The site is zoned R4 High Density Residential. The proposed development is defined as a hospital and a hospital is a prohibited use in the zoning table. The application is lodged pursuant to Clause 57 of SEPP (Infrastructure) 2007.

### **Residential zone objectives:**

The objectives for the R4 High Density Residential Zone are:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for high density residential housing close to public transport, services and employment opportunities.*

The proposal is inconsistent with the following objective:

*To provide for high density residential housing close to public transport, services and employment opportunities.*

The proposal is inconsistent with this objective as it results in the isolation of 744 Pacific Highway. Of importance to the success of the Ku-ring-gai LEP (Local Centres) 2012 and the achievement of Ku-ring-gai's housing targets is ensuring that development does not result in isolated sites which cannot be developed to their reasonable potential. Particular concerns with the subject application include the failure to provide an adequate valuation for 744 Pacific Highway and that the concept plans for the potential redevelopment of 744 Pacific Highway rely on a right of carriageway that does not exist and cannot be reasonably required as a condition of consent.

### **Development standards:**

<b>Development standard</b>	<b>Proposed</b>	<b>Complies</b>
<b>Building height:</b> 11.5m	12.5m	<b>NO</b>
<b>Floor space ratio:</b> 0.8:1	0.64:1	<b>YES</b>

### **4.6 Exceptions to development standards:**

The applicant has submitted a request for a variation to the maximum building height development standard.

The objectives of clause 4.6 are:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Subclause (3) states that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Subclause (4) states that development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:*
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

The objectives of the 'height of buildings' clause are:

- (a) to ensure that the height of development is appropriate for the scale of the different centres within the hierarchy of Ku-ring-gai centres,*
- (b) to establish a transition in scale between the centres and the adjoining lower density residential and open space zones to protect local amenity,*
- (c) to enable development with a built form that is compatible with the size of the land to be developed.*

In response to objective (a), 'To ensure that the height of development is appropriate for the scale of the different centres within the hierarchy of Ku-ring-gai centres', the applicant states:

*This objective ensures that the height of developments within the designated centres of Gordon, Lindfield, Pymble, Roseville, St Ives and Turramurra is appropriate to the centre's place in the hierarchy of centres. Within the Gordon Centre, whilst the height standard of the subject site is 11.5m, the height of the lands to the south of the site (Nos. 730 – 736 Pacific Highway) is 17.5m whilst lands to the north of the site have a height limit of 20.5m (Nos. 756 – 782 Pacific Highway) and 38.5m (Gordon Centre). The contravention of the height standard on the site by a maximum of 1m to allow for a maximum height over a section of the building of 12.5m will have no impact on the scale of development in Gordon relative to its hierarchy.*

*The lands to the north and south of the site have a maximum building height standard of 11.5m, the same as the subject site. The lands to the northwest (St*

*John's Cemetery), though at a lower level, have no building height standard pertaining to them. As outlined in the Heritage Impact Statement, the proposed development will not negatively impact the cemetery as the portion of the development adjoining the cemetery complies with the control.*

In response to objective (b), 'To establish a transition in scale between the centres and the adjoining lower density residential and open space zones to protect local amenity', the applicant states:

*The lands to the west of the site are zoned R2 (low density residential development) and have a maximum building height of 9.5m. Every effort has been made in the design of the development to minimise the impact of the proposed building on this adjoining residential property; the setbacks at ground level have been increased to allow for the provision of a landscape strip and the Second Level is provided for only the northern portion of the development and therefore does not impose on adjoining R2 interface. Having regard to the marginal excess of the building height limit (up to 1m), the portion of the development which exceeds the building height which is minimal and the negligible impact of this variation, it is considered that the proposed variation is not inconsistent with this objective.*

In response to objective (c), 'To enable development with a built form that is compatible with the size of the land to be developed', the applicant states:

*The scale of the proposed hospital, with a Gross Floor Area of 3,048.6m<sup>2</sup> on a site of 4,715m<sup>2</sup>, resulting in a total FSR on the site of 0.64:1 and the majority of the building height complying with the 11.5m maximum building height, is considered appropriate to the size of the land to the development. The building storey controls set out in the Ku-ring-gai DCP (Part 7C.11 Building storeys) state that sites with a maximum building height of 11.5m must have a maximum of 3 storeys above basement. The proposed development complies with this translation from height in metres to height in storeys.*

*In order to assess the compatibility of the proposal relative to its surroundings, reliance is placed on the Land Environment Court Planning Principle of 'compatibility with context' in Project Venture Developments v Pittwater Council [2005] NSWLEC 191. To test whether a proposal is compatible with its context, the following two questions can be asked:*

***Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.***

*The site is zoned for R4, high density residential development and as such, with a Maximum Building Height of 11.5m, a three storey Residential Flat Building would normally be permissible on the site. It is argued, that the physical impacts of the proposed inpatient mental care facility are no greater and likely significantly less than those which would arise from a Residential Flat Building. This is particularly the case as the proposed design does not have any openings on the western elevation and only emergency egress from the building to this elevation. This western boundary features fencing and dense landscape screening which ensures that the neighbouring properties are not physically impact upon.*

*Due to the consolidation of a number of lots, the question as to the impact on the development potential of No. 744 Pacific Highway is raised and addressed in the*

*SEE. It is demonstrated therein, supported by the architectural plans prepared by Elevation Architecture for this site, that the proposed development on the subject site will not isolate No. 744 Pacific Highway or otherwise constrain the development potential of this site.*

*It is further argued, that the physical impacts on surrounding development which will result from this specific variation from the development standards (to allow for a 1m excess of the 11.5m building height over a limited area of the building) will be negligible. As can be seen from the shadow diagrams accompanying this DA, the overshadowing resulting from the portion of the building which exceeds 11.5m will have no impact on the residential amenity of the adjoining properties.*

***Is the proposal's appearance in harmony with the buildings around it and the character of the street?***

*The site of the proposed development contains a Heritage Item of Local Significance: Windsor House, whilst part of the site and the lands to the north which contain St John's Church and associated buildings, is designated a Heritage Conservation Area. As outlined in the Heritage advice HIS which accompanies this DA, the proposal will be relatively discreet when viewed from the public domain and will not affect significant views to or from the heritage items.*

In response to the objectives of the R4 High Density Residential zone the applicant states:

*Whilst the land use table for R4 provides that health service facilities, hospitals and medical centres are not permissible within the R4 Residential zone, the proposed use of the land for a hospital / inpatient unit is not incompatible with the objectives of the zone generally. Specifically it would provide facilities and services for local residents not otherwise available.*

On 3 July 2014, the applicant was advised by Council that the building height variation was not supported. The following issues were identified:

The western elevation of the development has a length of approximately 60m, a height of more than 11.5m and a partial 4 storey presentation. If the provisions of the Local Centres DCP were applied, the development would be required to have a minimum setback of 6m for the first 3 storeys and 9m for the fourth storey. In addition the façade would be required to be broken down into distinctive bays and wings through deep articulation. The design of the development does not have adequate regard to the zone interface principles established by the Land and Environment Court in Seaside Property Developments Pty Ltd v Wyong Shire Council.

The clause 4.6 variation states that the second level is only provided for the northern portion of the development and does not impose on the adjoining R2 interface. This position is not supported as the southern part of the western elevation which faces the R2 zoned land has a 4 storey presentation, does not comply with the 11.5m height limit and is of greater height than the northern portion. The 4 storey portion of the development will be visible from the private open space of 22 St Johns Avenue and 3 Bushlands Avenue and will have an overbearing impact on these R2 zoned properties. At a zone interface between R2 and R4 zoned land it is considered inappropriate and unacceptable for the eastern outlook from the private open space of two single dwellings to be

dominated by a building elevation with a length of 60m and maximum height of more than 11.5m.

The intent of the articulation to the western elevation should be to provide a built form which respects and relates to the characteristics of the adjacent R2 zoned land. The proposed articulation is shallow in depth and limited in width. This type of articulation does not relate to the form and proportions of development in the adjacent R2 zoned land.

The articulation of the western elevation should be amended. The indentation at Rooms 60 and 28/29 should be extended to include Rooms 26/27 and 58/59. To avoid a four storey presentation and non-compliant building height adjacent to the R2 zoned land Rooms 48/49 and 50/51 should be deleted.

The applicant provided the following response:

*The majority of the development is 3 storeys in height and is significantly under the 11.5m height limit. The building is also articulated by virtue of physical attributes and material changes. The proposal addresses the zone interface principles as set out in Seaside Property Developments Pty Ltd v Wyong Shire Council with regard to building height (less than the control), meeting and exceeding the building setbacks and maintaining privacy of neighbouring properties through highlight and un-openable windows and privacy screening.*

*The subject site as Council is aware, is zoned R4 High Density Residential and the alternative redevelopment of this site for the purpose of a permissible residential flat building would reasonably envisage the whole western elevation of such a building to feature balconies at 6m separation up to 3 storeys in height. Such a development would ultimately result in a four storey flat building pursuant to the 11.5 metre height limit. The proposal is far better in terms of amenity in comparison to such a development outcome. Should Council remain concerned with regard to the treatment of the western elevation, we recognise that Council may chose to impose a condition to delete what they consider to be the offending rooms or seek further articulation in specific terms as detailed in their correspondence dated 3 July 2014.*

*Any such condition can be eminently drafted to satisfy the Newbury Principles.*

**Assessing officers response:**

The applicant's statement that a height limit of 11.5m allows for 4 storey development is incorrect. The Ku-ring-gai Local Centres LEP is a Standard Instrument style LEP. This type of LEP requires building height to be measured from the existing ground level (existing) to the highest point of the building. The typical floor to floor height for a residential flat building is 3m, a height limit of 11.5m allows for sloping topography, three residential levels and the roof structure. Part 7C.11 'Building Storeys' of the Local Centres DCP states that a building height limit of 14.5m is required for 4 storey development.

It is also noted that the applicant's response of 9 July 2014 appears to contradict the clause 4.6 variation which states that the R4 zoning and 11.5m height limit would make a 3 storey residential flat building permissible on the site.

*The site is zoned for R4, high density residential development and as such, with a Maximum Building Height of 11.5m, a three storey Residential Flat Building would normally be permissible on the site. (extract from clause 4.6 variation)*

The clause 4.6 variation does not adequately address the impacts of the non-compliance on the adjacent land which is zoned R2 Low Density Residential. The applicant's claim that only the northern portion of the hospital does not comply with the building height control is incorrect. The southern portion of the western elevation, which is adjacent to the private open space of 22 St Johns Avenue and 3 Bushlands Avenue, has a 4 storey presentation and a non-compliant height of 12.2m.

In support of the variation the applicant seeks to compare the proposal to a residential flat building which would feature balconies set back 6m from the side boundary. It is agreed that a residential flat building on the site is likely to have west facing balconies. Balconies provide a façade with depth and shadow lines that have the effect of breaking down the building mass and minimising visual bulk. The proposed development does not incorporate design features which would achieve a similar outcome. The length of the western elevation (60m) is also considerably greater than the maximum length permitted for a residential flat building (36m).

The DCP controls for residential flat buildings also require additional setbacks at the zone interface. For the 4<sup>th</sup> storey and above (i.e. building height >11.5m) a minimum setback of 9m is required. Those parts of the building which exceed a height of 11.5m do not have a setback of 9m.

The impacts of the additional height have not been ameliorated through additional setbacks and the shadow diagrams are not sufficiently detailed to allow for an assessment of the impacts of the additional shadowing caused by the non-compliant building height.

Having regard to the issues identified above, it is considered that the applicant's variation request to the development standard does not satisfy the requirements of clause 4.6 as compliance with the development standard is not unreasonable or unnecessary and the environmental planning grounds relied upon by the applicant to justify contravening the development standard are not well founded.

The applicant has suggested that the design changes suggested by Council could be achieved through conditions of consent. It is not agreed that conditions requiring significant design changes could be worded with such precision that ambiguity in the interpretation of the condition could be avoided. Ultimately, the required design changes would also require some type of planning assessment, which is not the role of a condition of development consent.

### **5.9 Preservation of trees or vegetation:**

Clause 5.9 requires that a person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree without the authority conferred by a development consent or permit. Council's Landscape Officer has advised that the proposed tree removal is acceptable.

### **5.10 Heritage conservation:**

The proposal is subject to this clause as the existing Lawson Clinic outpatient facility at 748 Pacific Highway is a heritage item. The proposed works to the heritage item include replacement of the existing driveway with a footpath/landscaping,

modifications to the carpark and a boundary adjustment which will reduce the site area by 66.1m<sup>2</sup>. Clause 5.10 (4) requires the consent authority to consider the effect of the proposed development on the heritage significance of the item or area concerned before granting consent.

## POLICY PROVISIONS

COMPLIANCE TABLE		
Development control	Proposed	Complies
<b>Volume A</b>		
<b>Part 3 Land amalgamation and subdivision</b>		
<b>Lot amalgamation is to avoid creating:</b>		
A primary street frontage less than that required by KLEP (Local Centres) 2012	The development will isolate 744 Pacific Highway. This site has a frontage of 22.86m which does not comply with the minimum frontage requirement of 24m	<b>NO</b>
A lot size less than that required by KLEP (Local Centres) 2012	The development will isolate 744 Pacific Highway which has a site area of 1037m <sup>2</sup> . The minimum site area for a residential flat development is 1200m <sup>2</sup> .	<b>NO</b>
A highly constrained site	The isolated site is not constrained by heritage, riparian or biodiversity values.	<b>YES</b>
<b>Volume B – Heritage and Conservation Areas</b>		
<b>7.3 Development in the vicinity of a heritage item</b>		
The minimum separation from a heritage item is 12m.	6.2m to the Op Shop and 5m to the Church Hall at 750-754 Pacific Highway Gordon	<b>NO</b>
	13.6m to the heritage item at 748 Pacific Highway.	<b>YES</b>
The façade height must not exceed 8m from existing ground level.	eastern and northern elevations have a height of 9.8m	<b>NO</b>
Any building mass above 8m from existing ground level must be stepped back an additional 6m from the heritage item.	7.2m to the Op Shop and 5m to the Church Hall at 750-754 Pacific Highway Gordon.	<b>NO</b>
	13.6m to the heritage item at 748 Pacific Highway	<b>NO</b>
Any new development must have a maximum 36m wall length to any boundary.	the western elevation has a length of 60m	<b>NO</b>
Screen planting on side and rear boundaries	groundcovers in the	<b>NO</b>

adjoining a heritage item site is to achieve a minimum mature height of 4m	800mm wide planter bed between the eastern elevation and the heritage item at 748 Pacific Highway will not achieve a height of 4m	
No metal panel fencing is to be constructed on any heritage item boundary.	no metal fencing proposed	<b>YES</b>
<b>Volume C - Car parking</b>		
Car parking rates		
Hospitals: 1 space per 3 beds plus 1 space per 2 day-shift staff or practitioners plus 1 ambulance space, 1 space per 1 full time night-shift employee = 37 Health consulting rooms: 1 per 40m <sup>2</sup> of GFA = 10 Total = 47	31	<b>NO</b>
<b>Volume C – Building Design and Sustainability</b>		
All new non-residential development must include Ecologically Sustainable Design measures	Ecologically Sustainable Design measures have been incorporated into the proposed development	<b>YES</b>

### 3A.1 Land amalgamation

The development includes the amalgamation of three lots and a boundary adjustment. Design control 4 states that lot amalgamation is to avoid creating a site with a primary street frontage or lot size less than required by Ku-ring-gai LEP (Local Centres) 2012. The proposed land amalgamation will result in the isolation of 744 Pacific Highway Gordon which currently contains a single storey dwelling-house. The site is isolated as it will be surrounded by the development on all non-road frontage boundaries thus preventing it from being amalgamated with another allotment. The site is zoned R4 High Density Residential and is subject to a building height control of 11.5m and a floor space ratio control of 0.8:1. The lot size and street frontage of the site does not comply with the development standards of Ku-ring-gai LEP (Local Centres) 2012 which apply to residential flat building development.

In response to the land amalgamation requirements of the DCP, the applicant has:

- prepared a concept plan for a 3 storey residential flat building at 744 Pacific Highway with vehicular access through the access handle of 742 Pacific Highway
- suggested that a condition be imposed on any development consent requiring registration of a right of carriageway over 742 Pacific Highway for the benefit of 744 Pacific Highway
- commissioned Mark O'Neil valuations Pty Ltd to prepare a valuation of 744 Pacific Highway
- made a written offer to the owner of 744 Pacific Highway to purchase the property



On 3 June 2014, the applicant was advised that the assessing officer had the following concerns with the valuation prepared for 744 Pacific Highway

*I have checked the zoning of the properties listed in the valuation.*

*1 Bushlands Avenue is zoned R4 with same FSR and height as the subject site  
7 Bushlands Avenue is zoned R2, 9.5m height, 0.3:1 FSR  
47 St Johns Avenue is zoned R2, 9.5m height, 0.3:1 FSR  
59 St Johns Avenue is zoned R2, 9.5m height, 0.3:1 FSR  
9 Oberon Crescent is zoned R2, 9.5m height, 0.3:1 FSR  
724 Pacific Highway, zoned R2, 9.5m height, 0.3:1 FSR, heritage item*

*Only 1 Bushlands Avenue has the same zoning as 744 Pacific Highway.*

*Nos 746 and 746A Pacific Highway were not included in the comparison despite these sites being sold within the same date range as the other properties.*

*The report also contains the following advice:*

*I have been verbally advised by Council that the subject property is within an area zoned residential under Ku-Ring-Gai LEP which permits single dwelling houses.*

*The site is zoned R4 and the valuation should be based on the highest and best use, a residential flat development.*

On 9 July 2014 the applicant provided the following response:

*We have demonstrated that No. 744 Pacific Highway is not isolated having regard to the relevant Planning Principles and the DA was accompanied by plans and a property valuation which supported the potential to redevelop No. 744 Pacific Highway for a residential flat building. This design proposal was accompanied by an offer of a right of way easement which permits access to No. 744 Pacific Highway via the subject site's driveway. Should Council feel that it's appropriate, this right of way can be conditioned accordingly.*

*Given we have demonstrated that the site is not isolated, there is no further requirement for revised concept designs or valuations of No. 744 Pacific Highway.*

Council's concerns regarding the valuation report have not been addressed and the applicant's position that 744 Pacific Highway is not an isolated site cannot be sustained. The development will result in the undersized allotment known as No. 744 Pacific Highway being 'sandwiched' between the access handles of the development site. The planning principles to which the applicant refers do not support the applicant's position. In *Melissa Grech v Auburn Council* Brown C of the NSW Land and Environment Court said:

*Firstly, where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the development application.*

*Secondly, and where no satisfactory result is achieved from the negotiations, the development application should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the*

*isolated property. A reasonable offer, for the purposes of determining the development application and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.*

*Thirdly, the level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application. The amount of weight will depend on the level of negotiation, whether any offers are deemed reasonable or unreasonable, any relevant planning requirements and the provisions of s 79C of the Environmental Planning and Assessment Act 1979.*

None of the above principles support the position that 744 Pacific Highway will not be isolated as a result of the proposed development. However, the principles do support the position that the reasonableness of any offer to purchase an isolated site is a relevant planning consideration.

The valuation for 744 Pacific Highway appears to have been based on incorrect zoning information and an assumption that only dwelling houses are permissible on the site. Significant concerns remain regarding the reasonableness of the offer to purchase the property.

The land amalgamation requirements of the Local Centres DCP have not been adequately addressed. The proposal is not consistent with the objects of the Environmental Planning and Assessment Act, specifically object (a) (ii), ‘*the promotion and co-ordination of the orderly and economic use and development of land*’.

## **Heritage**

The proposal does not comply with the following controls which apply to development in the vicinity of a heritage item:

- separation distance
- façade height
- setbacks
- building elevation length
- screen planting

Council’s Heritage Consultant has assessed the proposal and found that the impact of the development on adjacent heritage items is unacceptable for reasons of inadequate setbacks, separation distance and landscaping. The full comments of Council’s Heritage Consultant are **Attachment E**.

## **Car parking**

The applicant’s traffic consultant states that the parking demand for the development is 25 spaces and the amended DA provides 31 spaces. The consultant justifies the variation from the DCP requirement on the basis that a hospital providing mental health services is very different from typical medical facilities and hospitals and that the current occupancy rates for the existing Lawson Clinic car park indicate a vacancy of 5-8 spaces during the day. The consultant states that surveys of similar

facilities cannot be provided as no related private mental hospital has been established in Metropolitan Sydney for over two decades.

The existing Lawson Clinic is an outpatient unit and is used for both face to face consultations and telepsychiatry. In terms of likely parking demand it is acknowledged that the telepsychiatry services are unlikely to generate demand for patient car parking, however this element of the existing service is an operational issue that cannot be subject to a development consent requirement as enforcement of any condition requiring a certain portion of the service to be telepsychiatry would be impossible.

The consultant has attempted to distinguish the proposed hospital for mental health services from a conventional hospital offering surgical services. It is unclear as to the basis of this difference. For example, on the subject of visitation, the Statement of Environmental Effects advises:

*The number of visitors to the facility will be significantly less than a standard 'general' hospital. Unfortunately, there is still a stigma attached to mental health issues, and most patients will only inform their immediate family or partner that they are admitted. Visiting times are Monday to Saturday 11:30am to 2pm and 4:30 – 8:30pm, and Sunday 10am – 8pm. Weekend visitations are encouraged as there are no compulsory group programs run on weekends and as such there will be less interference with the patients' routines and treatment. On average, it can be anticipated that patients may have 2 visitors per weekend. The number of professional visitors (visiting consultants, students, etc) to the facility is likely to be in the order of 4 to 5 per week.*

The number of staff during the day is between 21 and 25. If every staff member drove to work the provision of 31 car spaces leaves 6-10 car spaces available for visitors. As visitors are encouraged and the hospital has a capacity for 65 patients, it appears unlikely that 6-10 visitor car spaces would be sufficient.

The car parking rates in the Local Centres DCP are not unreasonable, in fact the car parking rates for hospitals in the RTA (now RMS) Guide to Traffic Generating Developments are more onerous. The RTA (now RMS) Guide requires 39 spaces compared to the DCP requirement of 37 spaces.

Significant concerns are held regarding the adequacy of the car parking arrangements. The shortfall in the car parking requirements is in the order of 16 spaces. The applicant's correspondence of 9 July 2014 advised that if additional car parking is required by Council, it can be provided by a condition requiring additional parking under the northern wing of the building. A condition requiring the modification of the plans to include a basement car park should not be imposed as the outcome of such a condition is unknown.

### **Ku-ring-gai Contributions Plan 2010**

The applicant has requested an exemption from the payment of development contributions on the basis that

- patients will not be permitted access to private or public transport during their stay
- the hospital will provide a community benefit

- the hospital will have a teaching and medical research function in furtherance of the public interest

Section 1.26 of the contributions plans provides exemptions in the following cases:

1. *Developments which provide a distinct community benefit on a not-for-profit basis including but not necessarily limited to: fire stations, police stations or police shopfronts, ambulance stations, rescue services, State Emergency Service (SES) and Rural Fire Services (RFS) operational bases and the like;*
2. *Development by or for non-profit or cooperative organisations which provide a distinct community benefit including but not limited to: the provision of childcare services (especially for under-2s and/or special needs children) including kindergartens and pre-schools; outreach services, community services or the like, on a cooperative or not-for-profit basis;*
3. *Development which involves an application solely for the internal conversion of one existing single terrace style shop-top type dwelling (typically located in the town centres along the Pacific Highway) or a freestanding single dwelling which has recently been used for commercial purposes back to residential use. This potential exemption will not apply where that conversion occurs as part of a larger redevelopment which must be considered as a whole; and/or*
4. *Development where it can be demonstrated to the satisfaction of Council that in any particular category of contribution that the development, by the particular nature of its use, in the unique circumstances of the case, does not generate a demand for, or derive benefit from, some or any of the types of facilities and amenities to be provided. Note: Given that the grant of any such exemption, full or partial, may be considered to create a precedent or confer a pecuniary advantage on one developer over others, such an exemption is not likely to be granted unless there are absolute meritorious circumstances that would distinguish the case of the subject development from any other. All such arguments will be put before Council for formal determination and the full text of any such submission will be publicly available on Council's website for public scrutiny.*

The proposed hospital is not a 'not for profit' venture, accordingly an exemption can only be sought on the basis that the development will not generating a demand for or derive a benefit from any of the facilities and amenities provided by the Contributions Plan.

The contributions plans provides for the following:

- local parks and sporting facilities
- local recreational, cultural and social facilities
- new roads and road modifications
- townscape, transport and pedestrian facilities

The statement of the applicant that patients will not have access to transport during their stay cannot be relied upon as this is an operational aspect of the development which may change in the future. In addition, the rules which apply to patients during their stay are not aspects of the development that Council has the ability to monitor or enforce.

Staff, visitors and potentially patients from the hospital would have access to facilities within the Ku-ring-gai LGA that are provided by the Contributions Plan, if approval of the application were recommended payment of section 94 contributions would be required.

## **LIKELY IMPACTS**

The likely impacts of the development have been considered within this report and it is considered that further amendments are required to the design before consent can be granted.

## **SUITABILITY OF THE SITE**

The site is zoned R4 High Density Residential and the proposed is permissible under the provisions of SEPP (Infrastructure) 2007. The development site is constrained through it sharing a boundary with R2 Low Density Residential Zoned land and heritage items on the site (748 Pacific Highway) and adjacent sites (750-754 Pacific Highway). The development does not display an appropriate design response to the zone interface and the adjacent heritage items.

The proposed development has unsatisfactory impacts on the R2 Low Density Residential Zoned land and the heritage items at 748 and 750-754 Pacific Highway. The documentation submitted with the application also exhibit inconsistencies which lead to concerns regarding the certainty and finality of any consent which relied on these documents.

## **ANY SUBMISSIONS**

The submissions have been considered in the above assessment.

## **PUBLIC INTEREST**

The public interest is best served by the consistent application of the requirements of the relevant planning controls, and by Council ensuring that any adverse effects on the surrounding area and the environment are minimised. The proposal has been assessed against the provisions of the relevant planning controls and is deemed to be unacceptable. On this basis, the proposal is not considered to be in the public interest.

## **OTHER RELEVANT MATTERS**

There are no other matters for consideration.

## **CONCLUSION**

This application has been assessed under the heads of consideration of Section 79C of the *Environmental Planning and Assessment Act* 1979 and all relevant instruments and policies. The proposal does not achieve compliance with the requirements of the relevant instruments and policies and refusal is recommended.

## **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, refuse development consent to Development Application No. 0327/13 for the following reasons:

**1. Isolation of 744 Pacific Highway Gordon**

*Particulars*

- The development will result in the isolation of 744 Pacific Highway Gordon which has a frontage width and site area which does not comply with the development standards of Ku-ring-gai LEP (Local Centres) 2012.
- The site is zoned R4 High Density Residential and its highest and best use is a residential flat building.
- The valuation for 744 Pacific Highway is significant flawed as only one of the six comparable properties is zoned R4 High Density Residential.
- The valuation for 744 Pacific Highway is significantly flawed as it is based on an incorrect assumption regarding zoning and permissible development.
- The proposal is not consistent with the objects of the Environmental Planning and Assessment Act, specifically object (a) (ii), '*the promotion and co-ordination of the orderly and economic use and development of land*'.
- The proposal does not comply with Part 3A.1 'Amalgamation' of the Local Centres DCP.
- The isolation of 744 Pacific Highway is inconsistent with the zone objectives for the R4 High Density Residential zone.

**2. Unsatisfactory impacts on heritage items**

*Particulars*

- The development fails to achieve the setback and separation distances requirements specified in Part 7.3 'Development in the vicinity of a heritage item' of the Ku-ring-gai Local Centres DCP.
- The application documentation contains inadequate and inconsistent details regarding the proposed landscaping and splay corner works within the site of the heritage item at 748 Pacific Highway.
- The plant species selection both in front of 748 Pacific Highway and along the northern boundary will provide no effective screening and will not be appropriate in immediate proximity to the two heritage items.
- The colours and materials selection for the eastern and northern elevations are not appropriate in the context of the adjacent heritage items and heritage conservation area. Tonally neutral colours and non-reflective finishes should be provided to minimise the visual prominence of the development in views to, from and over adjacent heritage items.
- The setback between the northern end of the eastern elevation and the car park of the outpatient facility is inadequate to accommodate effective landscape screening between the heritage item at 748 Pacific Highway and the hospital and to provide a landscape backdrop at the rear of the heritage item.
- The setback of the building from the northern boundary shared with 750-754 Pacific Highway increases the scale of the development as viewed from St

Johns church and cemetery and changes the view from the sky and trees to a building wall with minimal landscaping.

**3. Unsatisfactory impacts on land zoned R2 Low Density Residential and failure to achieve compatibility with the surrounding land uses**

*Particulars*

- The proportion of the site that is deep soil landscaping (26.9%) is significantly less than adjacent properties. The landscape character of the development is inconsistent and incompatible with the existing and likely future landscape character of the locality.
- The western elevation of the development is of excessive length, non-compliant height and has not been suitably modulated to break down the built form in a manner that respects and reflects the characteristics of the adjacent R2 Low Density zoned land.
- The 3.2m side boundary setback of the 'staff & delivery carpark' does not provide adequate space for landscape screening in scale with the building. The proposed 3m-5m high wall on the western end of the car park has a setback of 2m from the western side boundary and will have an unacceptable visual impact on the private open space of 22 St Johns Avenue.
- The proposed elevated driveway at the southern end of the hospital is likely to have unacceptable acoustic impacts on the dwelling-house at 744 Pacific Highway.
- The proposed elevation at the southern end of the hospital has an inadequate setback of 1.5m from the rear boundary of the dwelling-house at 744 Pacific Highway. The setback of 1.5m is will not provide sufficient area for landscape screening of the driveway and the hospital building.
- The proposed driveway in the northern access handle occupies the entire width of the northern access handle and provides no space for landscaping which would soften the built form.

**4. The clause 4.6 variation to the development standard for building height is not well founded.**

*Particulars*

- The variation is based on an incorrect statement that only the northern part of the building does not comply with the building height control. The southern part of the building also fails to comply with the building height control.
- The physical impacts of the non-compliant building height have not been quantified and justified, i.e. additional overshadowing to the private open space of 22 St Johns Avenue and 3 Bushlands Avenue.
- The non-compliant building height, inadequate setbacks, inadequate landscape space and 4 storey presentation of the western elevation will have an unacceptable visual impact on the private open space of 22 St Johns Avenue and 3 Bushlands Avenue.
- It has not been demonstrated that compliance with the development standard is unreasonable or unnecessary.

- It has not been demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

## **5. Inadequate car parking**

### *Particulars*

- The number of car spaces provided for the development does not comply with the requirements of Ku-ring-gai Local Centres DCP and the RTA (now RMS) Guide to Traffic Generating Developments.
- The justification for the variation to the parking controls is not based on surveys of similar uses.
- The justification for the variation to the parking controls does not adequately explain why a hospital providing mental health services requires significantly less car parking than a hospital providing other health services.

## **6. Inaccurate and inconsistent plans**

### *Particulars*

- RLs on landscape plans are inconsistent with architectural plans in places, the numbers of risers of stairs do not seem to match some levels and the labelling of proposed and existing ground and path levels is unclear.
- There is ambiguous information regarding top of wall levels at the truck turning area. The top of wall height is annotated as RL124.50, however this appears to be the finished driveway surface level. If the top of wall height and finished driveway surface level height is the same there is nothing to prevent trucks reversing over the platform and dropping some 2 metres to the lower car park level.
- Pedestrian and vehicle ramps do not indicate the direction of the ramps and nominate all gradients.
- There's a missing gradient at the main entry pedestrian ramp.
- The main pedestrian ramp appears to rise from RL 127.85 at northern car park landing near Windsor House to RL128.15 at the NE corner of the proposed hospital then fall to RL127.50 at main building entry. This appears to be unnecessary as the high point does not link to any other levels.
- Fire Stairs don't indicate direction of stair or breaks between levels.
- Fire Stair 3 risers indicate the same number of risers between the lower ground and ground floor levels as between the ground floor and first floor despite the floor having different ceiling heights. Stair design for the first floor and ground floor are the same despite the first floor not sitting below another floor.
- The lift at the southern end appears to offer the only means of entering the building from the lower car park. Provision of stair access for staff from the lower car park should be considered.
- Floor levels on HT2 Section do not match the floor plans.
- The driveway design is not achievable as the survey plan shows that the roof of the garage at 744 Pacific Highway is over the boundary.
- The landscape plans (L001 & L003) shows a splay on the driveway at the front boundary which is not shown on the photomontage (DA-05.11) and the site plan (DA-01.01). It is unclear whether the splay will be provided and if it will affect trees at 748 Pacific Highway.



- The capacity of the rainwater tank shown on the stormwater plan is different to the capacity of the rainwater tank recommended in the ESD report.
- The above ground rainwater tank is not shown on the landscape plans (L001 & L004). If the location of the rainwater tank on the stormwater plan (DAC02) is correct, the tank is located on top of a footpath.

**7. The design of the stormwater system does not comply with the requirements of Volume C, Part 4, Water Management Controls of the Local Centres DCP.**

*Particulars*

- Connection of the interallotment drainage pipe to the existing pit within 738 Pacific Highway via an adverse right angle bend may affect that property's stormwater drainage system and may not function hydraulically. The applicant should investigate whether a separate kerb connection, in line with the interallotment drainage pipe, should instead be provided. The capacity of the rainwater tank shown on the stormwater plan is different to the capacity of the rainwater tank recommended in the ESD report.

Jonathan Goodwill  
**Executive Assessment Officer– South**

Shaun Garland  
**Team Leader Development  
Assessment – South**

Corrie Swanepoel  
**Manager Development & Assessment  
Services**

Michael Miocic  
**Director Development & Regulation**

**ATTACHMENTS:**

Attachment A – Pre DA Meeting Report  
Attachment B – Council's letter to applicant dated 26 November 2013  
Attachment C – Urban Design Consultant comments dated 12 December 2013  
Attachment D – Urban Design Consultant comments dated 21 March 2014  
Attachment E – Heritage Consultant comments dated 25 June 2014  
Attachment F – Urban Design Consultant comments dated 23 May 2014  
Attachment G – Clause 4.6 Variation Request  
Attachment H - architectural plans  
Attachment I - landscape plans  
Attachment J - stormwater plans  
Attachment K - valuation report dated 10 December 2013  
Attachment L - Planning Consultant letter dated 22 April 2014