

JOINT REGIONAL PLANNING PANEL (Sydney West)

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| 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 64 beds. Boundary adjustment between 746 and 748 Pacific Highway. Consolidation of 742, 746 and 746A Pacific Highway 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 | JSNL Pty Ltd, R I A F Pty Ltd |
| Number of Submissions | Original proposal: 12 submissions and 1 petition Amended proposal: 4 submissions Second amended proposal: 6 submissions Third amended proposal: No 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 Ku-ring-gai LEP Local Centres DCP Development Contributions Plan 2010 |
| List all documents submitted with this report for the panel's consideration | Attachment A – Revised clause 4.6 variation request Attachment B – Planning Consultant letter responding to JRPP deferral Attachment C – architectural plans Attachment D – landscape plans Attachment E – stormwater plans Attachment F – assessment reports considered by JRPP at its meetings on 11 September 2014 and on 8 April 2015 Attachment G – JRPP Record of Deferral Attachment H – Draft conditions of consent |
| Recommendation | Approval |
| Report By | Shaun Garland – Team Leader Development Assessment Team - South |

Assessment Report and Recommendation Cover Sheet

742-746 PACIFIC HIGHWAY, GORDON – SUPPLEMENTARY REPORT

EXECUTIVE SUMMARY

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| PURPOSE FOR REPORT: | To address the issues raised by the Sydney West Joint Regional Planning Panel (JRPP) at the 8 April 2015 meeting and for the JRPP to determine Development Application No. 0327/13 for the demolition of existing dwellings and construction of a hospital at 742-748 Pacific Highway, Gordon. |
| BACKGROUND: | <p>A supplementary report was considered by the JRPP on 8 April 2015 where the JRPP resolved to defer the determination pending the submission of additional information by the applicant in response to the issues raised relating to:</p> <ul style="list-style-type: none">• non-compliant building height• car parking deficiency• additional landscaping to rear of 744 Pacific Highway, Gordon and investigate opportunities for more landscaping across the site• details of fencing• reconcile inconsistencies with plans. |
| COMMENTS: | The adequacy of the additional information submitted by the applicant to address the issues raised has been assessed. |
| RECOMMENDATION: | Approval |

Legislative requirements

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|-------------------------------|---|
| Zoning | R4 High Density Residential under Ku-ring-gai LEP (Local Centres) 2013 |
| Permissible Under | State Environmental Planning Policy (Infrastructure) 2007 |
| Relevant legislation | 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 |
| Integrated Development | No |

PURPOSE FOR REPORT

To address the issues raised by the Sydney West Joint Regional Planning Panel (JRPP) at the 8 April 2015 meeting and for the JRPP to determine Development Application No. 0327/13 for the demolition of existing dwellings and construction of a hospital at 742-748 Pacific Highway, Gordon.

BACKGROUND

A supplementary assessment report was considered by the JRPP at its meeting of 8 April 2015 where it was resolved to defer the determination pending the submission of additional information by the applicant. The JRPP asked the applicant to address the following:

- a) Reduction of the height non-compliance to the greatest extent practicable by adjusting the Western lift bay and stairwell.*
- b) Add an additional 6 car parking spaces underneath the building*
- c) Add additional landscaping to the rear of 744 Pacific Highway on 748 Pacific Highway by reducing the internal driveway width and investigate additional landscaping opportunities across the whole of the site*
- d) Provide details of all fencing*
- e) Reconcile inconsistencies with the plans.*

The Council is asked to report on the amended plans in time for the JRPP meeting at Ku ring gai on 6 May 2015 and to provide draft without prejudice conditions of consent.

COMMENTS

In response to the deferral, the applicant submitted amended plans and additional information on 17 April 2015. An amended Clause 4.6 justification to vary the “*Height of Buildings*” standard (Clause 4.3 of the LEP) was requested on 21 April 2015. The

final version of the amended request to vary the development standard was received on 27 April 2015. The adequacy of this information to address the issues identified by the JRPP is discussed below.

a) reduction of the height non-compliance to the greatest extent practicable by adjusting the Western lift bay and stairwell.

The applicant has reduced the height non-compliance from 1.3metres to 690mm.

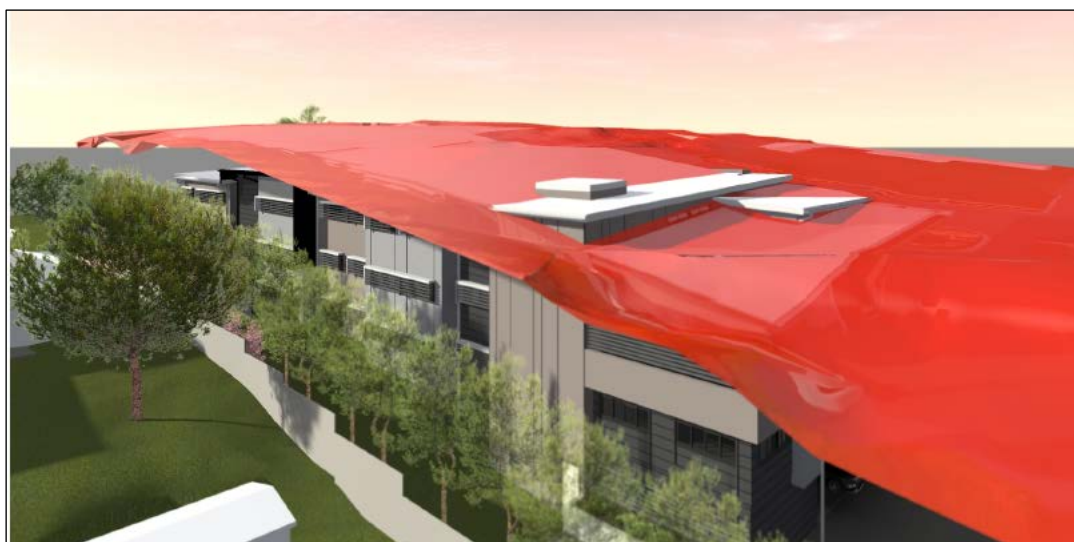


Figure 1 – previous height non-compliance, shaded area represents 11.5m height plane as reported to JRPP meeting 8 April 2015.

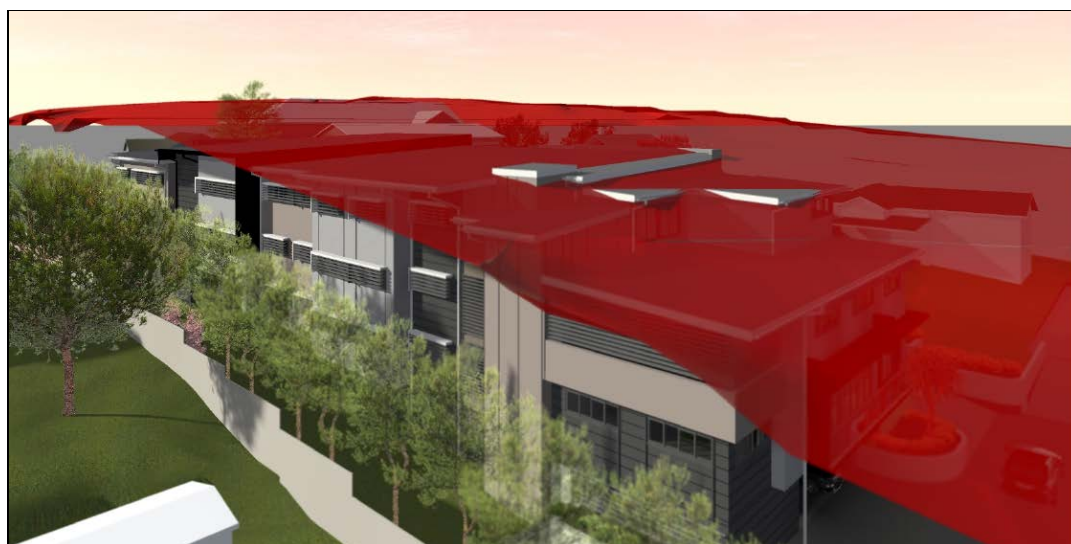


Figure 2 - amended proposal showing the reduced height non-compliance.

The plans have been modified by re-orientating the stairs and lift, which has reduced the overall height in the southern part of the building. The height non-compliance at its maximum is now 690mm. A detailed amended Clause 4.6 variation request (**Attachment A**) to the height standard was submitted on the 27 April 2015. The request contains detailed justification as detailed below under the Clause 4.6 variation request assessment.

Clause 4.6 Exceptions to development standards

The proposed development breaches Clause 4.3 Height of buildings standard contained within Ku ring gai LEP (Local Centres) 2012. The applicant has made a submission pursuant to Clause 4.6 to vary this development standard. Clause 4.6 provides flexibility in applying certain development standards on the following grounds:

(1) The objectives of this clause are as follows:

(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.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) 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 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.

(4) 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

(b) the concurrence of the Director-General has been obtained.

Whether compliance with the standard is unreasonable and unnecessary in the circumstances of the case

The applicant has provided justification that strict compliance with the height development standard is unnecessary and unreasonable for the following reasons:

- *The proposed development is consistent with the objectives of the zone and the development standard.*
- *The scale of the proposed development is compatible with the desired character of surrounding areas and the majority of the building is within the maximum height limit.*
- *There is no significant environmental impact of the additional height.*
- *There is no significant amenity impact from the additional height*
- *The contravention of the development standard raises no matter of significance for state or regional environment planning*
- *There is no public benefit of maintaining the development standard*
- *The proposed variation to the standard will facilitate the construction of a much needed mental health care facility*
- *Allowing this minor contravention of the maximum building height standard by up to 690mm will reduce the need for extensive excavation on the site by allowing the development to follow as much as possible the existing ground levels*
- *The design of the proposed development has been modified to set back from the adjoining properties and the parts of the structure where the building height is exceeded recessed back from the western and southern boundaries of the roof thereby minimising the impact on the adjoining properties.*

The proposed development will not result in any significant adverse impacts on the amenity of adjoining properties or nearby heritage item, having regard to considerations of streetscape character, aesthetics, overshadowing, privacy, and environmental quality. The height, mass and scale of the development is for the most part compliant with the control and not inconsistent for that anticipated in the Gordon local centre area. The development protects local amenity in the immediate context and is compatible with the size of the land to be developed in accordance with the height objectives of the LEP. In this regard, it is acknowledged that the site is somewhat constrained by the sloping topography such that there is a fall between the subject site and those to the south and south west where the numerical height breach occurs. Strict compliance with the height control over the full length of the building would unreasonably and unnecessarily restrict the height of the building at the rear, likely resulting in an impracticable built form which would require further stepping of the building for only a small length, but would not provide a meaningful improvement upon the amenity of the neighbouring properties given the minor nature maximum 690mm exceedance of the height limit.

The height and scale of the proposed development is not inconsistent with the likely future character of the nearby area given the higher density zoning of the surrounding properties within the Gordon Local Centre as described in the applicant's submission.

The proposal is not inconsistent R4 Residential zone objectives and is consistent with the relevant SEPP Infrastructure provisions, which affords the development its

permissibility. Additionally, Council's Urban Design Consultant has no objection to the proposed building height. In the circumstances, insistence on compliance with the Clause 4.3 – Height of buildings development standard would be unreasonable and unnecessary.

Environmental planning grounds to justify contravening the development standard

The applicant has provided sufficient environmental planning grounds for the proposed variation as summarised below:

- *The development is within the 11.5 metre building height control when measured from the natural ground level over the majority of the building. Given the proposal is attempting to minimise the impact on the adjoining properties; it is considered that this minor variation of 690mm (for the part of the structure which is recessed back from the building line – Figure 3) from the standard is reasonable. The proposal results in a development which is generally compliant with the height control;*
- *The proposed bulk and scale will be generally compatible with adjoining developments and provides an appropriate height transition between the R2 and R4 zones;*
- *The development comprises a stepped building form which follows the topography of the site and transitions downwards to the adjacent R2 interface; and*
- *The departure from the maximum building height will not result in any significant adverse amenity impacts such as overshadowing, privacy impacts or any significant view loss to the public domain or surrounding properties above that which is otherwise permissible under the existing controls.*

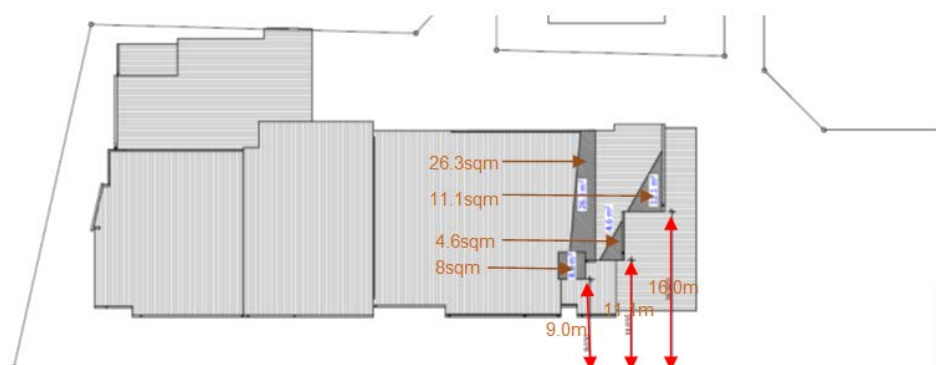


Figure 3 showing setbacks from the side boundaries of the non-compliant height elements of the proposed building.

It is considered that the proposed variation to the development standard raises no matter of significance for state or regional environmental planning and that there is no public benefit in maintaining the development standard in this particular case.

Public interest – Development consistent with the zone objectives and objectives of the development standard

The applicant has provided sufficient grounds for the proposed variation to the development standard in response to the objectives of SEPP (Infrastructure) 2007,

the R4 Residential Zone and objectives of the development standard as detailed in the Clause 4.6 variation request in **Attachment A**.

The building height non-compliance relates primarily to the lift and stair overrun within the southern section of the building as detailed in the clause 4.6 variation request. The maximum extent of the breach is 690mm above the 11.5 metres height control that results in a maximum height of 12.19 metres which occurs near the rear and side boundary of the site. The extent of non-compliance is negligible given its setback from the external wall of the building and the site boundaries being 9 metres to the western boundary and 30 metres plus to the southern boundary as shown in Figure 3 above. It is noted that the majority of the building complies with the height requirement in the clause 4.6 variation request.

The resultant building height is acceptable given the location in proximity to the Gordon local centre, surrounding land uses, the development is commensurate with the size of the land to be developed and will for the most part be visually negligible. The FSR complies with the standard which in part is another indicator of the acceptable scale of a building. Council's Urban Design Consultant has no objection to the proposed building height having regard to the scale of existing development. No significant impacts are envisaged to the amenity of the streetscape, neighbouring or environment.

The development is considered to be in the public interest.

Concurrence of the Director General

Circular PS 08-003 issued on 9 May 2008 informed Council that it may assume the Director-General's concurrence for exceptions to development standards.

In accordance with the provisions of Clause 4.6 (5):

In deciding whether to grant concurrence, the Director General must consider:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Director-General before granting the concurrence.*

Whether contravention of the development standard raises any matter of significance for state or regional environmental planning

It is considered that the objectives of the height standard in the LEP are achieved and that approval of the proposed development would not raise any matters of significance for state or regional environmental planning. The proposed variation to Clause 4.3 – Height of buildings of the Ku ring gai (Local Centres) Local Environmental Plan 2012 has been assessed on its merits and this does not infer that future variation of this standard would be granted in any other instance unless appropriate justification can be provided.

The public benefit of maintaining the development standard

Given the minor nature of the proposed variation, lack of significant impacts and

existing site constraints, there is minimal public benefit in maintaining the development standard having regard to the merits of the application. It is considered that no public benefit would be achieved in reducing the building height simply to achieve compliance with the stated height provision for the reasons given within the clause 4.6 discussion.

Any other matters required to be taken into consideration by the Director-General before granting the concurrence

All relevant State and local planning provisions have been taken into consideration in the assessment of the application prior to the granting of concurrence to the proposed variation of Clause 4.3 – Height of buildings of the Ku ring gai (Local Centres) Local Environmental Plan 2012.

Conclusion

The proposed variation will be negligible as viewed from the adjoining properties and public domain. The development satisfies the relevant provisions prescribed in Clause 4.6 as detailed above. The proposed development will not result in any significant adverse impacts upon the amenity of adjoining properties or public areas, having regard to considerations of streetscape character, aesthetics, overshadowing, privacy, and environmental quality. The height, mass and scale of the development is acceptable for the Gordon local centre, protects local amenity in the immediate context and is compatible with the size of the land to be developed in accordance with the height objectives of the LEP. Having regard to these considerations, in conjunction with the site constraints as discussed above, strict compliance with Clause 4.3 – Height of buildings is considered unreasonable and unnecessary in this instance.

b) Add an additional 6 car parking spaces underneath the building

An additional 6 car parking spaces have been provided underneath the building. The proposed car parking is now compliant and acceptable.

c) Add additional landscaping to the rear of 744 Pacific Highway on 748 Pacific Highway by reducing the internal driveway width and investigate additional landscaping opportunities across the whole of the site

The proposed driveway setback from the eastern boundary adjoining No. 744 Pacific Highway has been increased up a maximum of 2.6 metres (previously 1.5 metres). The proposed planter is sufficient to provide several trees that can attain 6-8 metres in height.

The amended landscape plan (Rev F) does not increase the provision of additional landscape opportunities across the whole of the site.

d) Provide details of all fencing

The proposed boundary fences are identified on the landscape plan as 1800mm high timber paling fences to all except the northern boundary. The northern boundary adjoining St John's Church is proposed to have a 'face brick landscaped wall', details of which have not been provided. The extent of this wall differs on the landscape plan and the architectural plan. The landscape plan is to be amended by condition (**Condition 21**). The height of the brick wall is not indicated and is conditioned to be 1.8 metres high (**Condition 21**).

e) Reconcile inconsistencies with the plans.

The previous inconsistencies in the plans have been rectified within the amended plans.

The Council is asked to report on the amended plans in time for the JRPP meeting at Ku ring gai on 6 May 2015 and to provide draft without prejudice conditions of consent.

The conditions requested by the JRPP are contained below in **Schedule B** following the recommendation of this report.

CONSULTATION – COMMUNITY

The amended plans and information submitted by the applicant were not required to be notified in accordance with Council's notification provisions.

CONSULTATION – WITHIN COUNCIL

Landscape

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)

*Site area 4282.2m²
Numerical compliance 50% (2141m²)
Proposed deep soil area 31.9% (1367m²)*

The proposal provides less than the amount of deep soil landscape area required under the zoning. The majority of the deep soil will be located south of No 742 Pacific Highway and in the front setback of No 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). There is an acceptable deep soil landscape provision between the development and the adjoining dwelling at 22 St Johns Avenue.

The building setback to the northern boundary provides an effective deep soil zone that supports canopy trees of a similar scale to the proposed building.

The proposal provides a vertical garden between the proposed building and the heritage item at No 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).

Tree replenishment (Part 7A.4 Volume A Ku-ring-gai (Local Centres)DCP)

The proposal should support a minimum number of 16 trees. The proposal complies with the minimum canopy tree requirement (17 proposed, 2 existing).

Tree Impacts (Clause 5.9 KLEP(Local Centres))

An arborist report prepared by Landscape Matrix, dated 10/07/13, has been submitted.

Trees to be removed

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 however the tree is required to be removed for the driveway. 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 the driveway to 746A Pacific Highway. The tree has poor form due to it being suppressed by a tree that has recently been removed. There is no objection to the tree's removal.

Tree 10-15/ Jacaranda mimosifolia (Jacaranda) This trees are located along the southern boundary of no. 746 Pacific Highway. The trees have all been poorly pruned in the past. There is no objection to the tree's removal.

Tree 17/ Robinia pseudoacacia "Frisia" (Black Locust) This tree is located within the rear setback of no. 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 no. 746A Pacific Highway. The tree has poor form due to it 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 no. 746A Pacific Highway. The tree is a poor specimen and is exempt under Part 13.2 Volume A Local Centres DCP. There is no objection to the tree's removal.

Tree 23-24/ Archontophoenix alexandrae (Alexandra Palm) This is a group of small palms are located at the northeast corner of no. 746A Pacific Highway. The trees are to be removed for the building and associated works. There is no objection to the trees' removal.

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

Tree 26/Cupressus torulosa (Bhutan Cypress) This tree is located on the southern boundary of no. 742A Pacific Highway. There is no objection to the tree's removal.

Trees to be retained

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 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 will be likely to have an adverse impact on this tree. Works to mitigate the impact on this tree will be conditioned.

Tree 20/ Magnolia x soulangiana (Magnolia) This tree is located on the western boundary of the site. The impact is considered acceptable.

Tree 21/ Tiboucina granulosa (Purple Glory Tree) This tree is located on the northwest corner of no. 746A Pacific Highway. The tree provides amenity to the adjoining heritage conservation area. The proposed paved area off 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 width to 6 metres in width. Additional trees located within the heritage item are to be removed to enable construction access to the site.

A canopy tree and additional shrub planting are proposed to be planted within the heritage item on the northern corner of the driveway entrance.

Side setback (7A.1 Volume A Ku-ring-gai (Local Centres) DCP)

The proposed driveway is setback up to 2.6 metres width from the eastern boundary adjoining No. 744 Pacific Highway. The proposed planter is sufficient to provide several trees that can attain 6-8 metres in height.

Driveway (1.2 Volume C Ku-ring-gai (Local Centres) DCP)

The proposed widening of the central driveway will require removal of the existing trees and hedge planting along the driveway. To provide landscape amenity along the southern side of the driveway, a 1500-1700mm high trellis for climbers is proposed.

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

The lower carpark requires filling to 2 metres and the soil is proposed to be retained by a stepped grass embankment. The proposed path along the western boundary will require cut and fill to meet basement access. To provide sufficient deep soil for effective landscape treatment to side setbacks all retaining walls are to be minimum 3.5m setback from the western boundary. This can be conditioned.

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

The site falls away to the west providing views across the adjoining properties and distant views. Existing screen planting located along the western boundary has been retained where possible including along the northwest corner of the site.

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.

The rear of the existing Lawson Clinic is an existing area of carpark. The proposed lot reconfiguration will reduce the area along the rear boundary of the heritage item by 95.7m². This area currently provides 1.5m landscape setback to the carpark. The proposal provides a narrow planting bed is proposed in association with a pergola to which climbers are to be fixed. An area of planting proposed at the northern and southern end of the carpark, though not directly behind the heritage building will provide for canopy tree planting as a background to the northeast and southeast corner of the proposed 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 southeast corner of the cemetery and the southern end of the columbarium. The proposed planting along the northern boundary will provide effective landscaping to the two storey northern section of the building.

The proposed assorted planting along the northern boundary of shrubs is consistent with the horticultural style of the adjoining item. Three additional medium sized deciduous trees should be provided along this boundary. (Condition 21).

Stormwater plan

The proposed OSD tank has been relocated to within the carpark at the southern end of the building. The proposed easement for Hydraulic works within No 742 and 738 Pacific Highway is likely to impact existing trees. An arborist report recommending thrust boring through this area has been provided. (Condition 50).

Conclusion

The proposal is acceptable, subject to conditions”

Engineering

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

“The recommended conditions include the consolidation of all the lots prior to the issue of the Occupation Certificate, as it is understood this is what the JRPP required. Therefore, listing of the Site Reconfiguration Plan, Elevation Drawing DA-01.03 Rev. DA7 in Condition 1 is not required.

There are no remaining engineering issues. A compliant total of 43 parking spaces is now provided for the clinic and the hospital.

*Sufficient detail is shown of the interallotment drainage pipe through 740 Pacific Highway. An appropriate deferred commencement condition has been included in **Schedule A**. The detailed design can be prepared for Construction Certificate with the internal stormwater design.*

The stormwater plan has been amended to show the 10 000 litres rainwater tank (re-use for irrigation) beneath the lower parking area (the tank shown on the plan may not have a realistic diameter, however there is space for the tank to be provided without affecting the landscaped area – this can be finalised on the Construction Certificate plans).

Sections still have not been provided for the vehicular driveway from Pacific Highway, however it is apparent that suitable gradients and retaining structures etc can be provided. The splay at the Pacific Highway entrance now appears on the photomontage. The relocation of the power pole will be a matter for the applicant during construction.

LIKELY IMPACTS

The likely impacts of the development have been considered within this report and it is concluded that the proposal is now satisfactory.

SUITABILITY OF THE SITE

The site is zoned R4 High Density Residential and the proposed development is permissible in accordance with under the provisions of the 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 application as modified now addresses the concerns raised by the assessing officer and is satisfactory in relation to the relevant planning controls. As a consequence, it is considered that the site is suitable for the development.

ANY SUBMISSIONS

The amended application was not notified and as such is not required under Councils' Notification provisions.

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 acceptable. On this basis, the proposal is considered to be in the public interest.

OTHER RELEVANT MATTERS

Section 94 Contributions

The applicant has made a submission in relation to the s.94 contributions as detailed below:

As per the Councils' Supplementary Assessment Report, the applicable s94 contribution for this development would be \$451,987.86. This was the contribution presented by Council Officers to the Councillors at the Ordinary Meeting of Ku ring gai Council held on 31 March 2015. On 13 April 2015, we requested Council to provide details including formulas to calculate this amount. Council forwarded a letter which is enclosed (refer Appendix I) that indicate an amount of \$530,671.07 with details as indicated below which were different from the previous amount as shown on the Council's Supplementary Report:

Development Contributions Plan 2010

Infrastructure Type Total

Gordon TC New Roads & Road Mods \$631,188.29

Gordon TC Local Parks & Sporting Facilities (cr1 -\$59,834.64

Gordon TC Townscape Transport & Pedest Fac icr) -\$31,787.94

LGA Wide Local Recreational & Cultural icr] -\$8,894.64

Development Contributions Total \$530,671.07

This letter did not include any details to calculate this amount. On 13 April 2015 we sent another request to Council to clarify the difference in the previous contribution indicated by Council as payable by the applicants in the amount of \$451,987.86 and this amount. Council further responded to this request and indicated that the relevant Council Officer is on leave and will provide the information next week indicating a break-down of the contribution and explanation in terms of the final amount.

On 15 April 2015, we sent another request to Council to clarify the category of the development (residential, retail and business) and criteria used to calculate the rate (persons/GFA). Council responded and indicated that the contribution was calculated as a business for the purposes of the s.94 plan and GFA was used for the purposes for the calculation which was that detailed on the most recent plans ('total proposed area' = 3073.7m²).

In response to this we further reviewed the Summary Schedule (page 9) of Ku-ring-gai Contributions Plan 2010 which is enclosed (refer Appendix I) and calculated the amount which does not match the amount provided by Council. Consequently we sent another request to Council to provide a break-down of the contribution and calculations used to reach the final amount. We are waiting for Council's response in this matter.

We reiterate our opinion that the proposed facility, which provides a significant public benefit to the community and generates little demand for the public facilities described in council's Development Contribution Plan, should be exempted from the payment of contributions. The proposed hospital the subject of the DA, incorporates tertiary research and teaching to be undertaken by a major not-for-profit Australian tertiary institution. Should Council not be prepared to accede to an exemption and the JRPP feel constrained to waive the contribution, we request that a clear and certain method of calculation of contribution be provided in Council's Report to the Panel.

The assessing officer's report for the 8 April JRPP meeting regarding the s.94 contribution concluded the following:

The proposed use does not satisfy any of the categories for exemption under section 1.26 of the contributions plans as it is intended to operate the facility on a for profit basis and the hospital will generate a demand for and benefit from the facilities and amenities provided by the contributions plan (i.e new roads and road upgrades). Accordingly, it is not recommended that an exemption from the payment of section 94 contributions be granted.

The reasons for the recommendation not to exempt the development from section 94 contributions have not changed.

The section 94 contribution applicable to the proposed development is as follows:

Development Contributions Plan 2010

| <i>Infrastructure Type</i> | <i>Total</i> |
|--|---------------------|
| Gordon TC New Roads & Road Mods - | \$630,545.65 |
| Gordon TC Local Parks & Sporting Facilities (cr) - | \$59,834.64 |
| Gordon TC Townscape Transport & Pedest Fac (cr) - | \$31,787.94 |

LGA Wide Local Recreational & Cultural (cr) -

\$8,894.64

Development Contributions Total -

\$530,028.43

Payment of the above contribution is required by **Condition 32**. Council's Section 94 Contribution Planner has reviewed the calculation and has confirmed its accuracy. The difference in the total amount payable between the amount now required and that reported to the Council meeting on 31 March 2015 reflects indexation of the contribution to the current December quarter. Council's initial response to the applicant's enquiry indicated that the indexation of the contribution was the likely reason for the difference. It is noted that the contribution will continue to be indexed quarterly following the release of the CPI and HPI in accordance with Section 1.38 of the Ku ring gai Contribution Plan 2010.

The contribution rate referred to by the applicant are the figures from the base Consumer Price Index (CPI) and Housing Price Index (HPI) which is stated on Page 61 of the Ku ring gai Contribution Plan 2010. The figures date from when the contribution plan was drafted. Works costs were quantity surveyed in the September Quarter 2009 and land costs were valued in the December Quarter 2008. As a result the rates are 5 and 6 years old, respectively.

The methodology, nexus and formula that forms the basis of the calculation is contained within the Ku ring gai Contribution Plan 2010. In summary, the above calculation is based on the increased floor area of the proposed development with credit for the existing three dwelling houses.

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 now generally achieves compliance with the requirements of the relevant instruments and policies and where there is a non-compliance suitable justification has been provided for the variation. Accordingly, consequence, the application is recommended for approval.

RECOMMENDATION

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

- A. THAT the Sydney West Joint Regional Planning Panel, as the consent authority, is satisfied that the request under Clause 4.6 of Ku ring gai Local Centres LEP 2012 to vary Clause 4.3 height development standard is well founded. The JRPP is also satisfied that the proposed development will be in the public interest and is consistent with the objectives of the development standard and the R4 residential zone.
- B. THAT the Sydney West Joint Regional Planning Panel, as the consent authority, grant deferred development consent to DA0327/13 for demolition of three dwellings at 742, 746 and 746A Pacific Highway and the construction of a 4 storey hospital with 64 beds and consolidation of 742, 746, 746A and 748 Pacific

Highway into a single allotment, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

SCHEDULE A

Deferred commencement terms:

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

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

1. Drainage easement (deferred commencement)

The applicant shall submit documentary evidence that the entire property benefits from a drainage easement over the downstream properties as far as the public drainage system. This consent will not operate until the documentary evidence has been submitted to and approved by Council's Development Engineer.

Reason: To ensure that provision is made for stormwater drainage from the site in a proper manner that protects adjoining properties.

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

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

CONDITIONS THAT IDENTIFY APPROVED PLANS:

2. Approved water management plans

Water management works shall be carried out in accordance with the following plans, listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

| | |
|---------------------------------|--------------------------|
| Plan reference | Drawing Number |
| AT&L Drawings 14-183 | DAC01A and DAC02E |

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

3. Approved architectural plans and documentation (new development)

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

| Plan no. | Drawn by | Dated |
|--|-------------------------------------|-----------------------|
| DA-01.01 Rev DA7 Rev DA7 Proposed Site Plan | Elevation Architecture Studio | Issue date 16/04/2014 |
| DA-01.04 Rev DA7 Carpark Plan. | Elevation Architecture Studio | Issue date 16/04/2014 |
| DA-01.02 Rev DA7 Existing Site Plan | Elevation Architecture Studio | Issue date 16/04/2014 |
| DA-01.07 Rev DA7 Site Environmental Management Plan. | Elevation Architecture Studio | Issue date 16/04/2014 |
| DA-02.01 Rev DA7 Proposed basement and lower ground | Elevation Architecture Studio | Issue date 16/04/2014 |
| DA-02.02 Rev DA7 Proposed Ground and First Floor. | Elevation Architecture Studio | Issue date 16/04/2014 |

| | | |
|---|---------------------------------------|-----------------------|
| DA-03.01 Rev DA7 Elevation 1 of 2 | Elevation Architecture Studio | Issue date 16/04/2014 |
| DA-03.01 Rev DA7 Elevation 2 of 2 | Elevation Architecture Studio | Issue date 16/04/2014 |
| DA-04.01 Rev DA7 Sections 1 of 2 | Elevation Architecture Studio | Issue date 16/04/2014 |
| DA-04.02 Rev DA7 Sections 2 of 2 | Elevation Architecture Studio | Issue date 16/04/2014 |
| DA-05.29 Rev DA7 11.5m Height Overruns – Roof Plan. | Elevation Architecture Studio | Issue date 16/04/2014 |
| DAC02 Issue E Site works and stormwater Drainage Plan | AT&L | 16/4/2015 |
| DAC03 Issue C Sediment and Erosion Control Plan | AT&L | 15/4/2015 |
| Excavation Plan DA-01.13 Rev DA7 | Elevation Architecture Studio | Issue date 16/04/2014 |
| Landscape Site Plan L001 and L002 Rev F | Peta Gilliland Landscape Design | Amendment 17/04/15 |

| Document(s) | Dated |
|---|----------------------|
| Sample board DA-22.8 Rev A Colours and materials choices for the Pacific HYW Hospital Elevation Architecture Studio Page 1 of 2 and 2 of 2 | 29/8/2013 Undated |

| | |
|---|----------------------------|
| Survey Plan pages 1 to 5 inclusive Stuart Bland Consulting Surveyor. | Date printed 8 August 2013 |
| BCA Compliance Statement Relating to base building works only Comcert Building Certifiers | 6 August 2013 |
| Draft Operation Management Plan – The Lawson Clinic | August 2013 |

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

4. Inconsistency between documents

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

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

5. Approved landscape plans

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

| Plan no. | Drawn by | Dated |
|---|---------------------------------|--------------------|
| Landscape Site Plan L001 and L002 Rev F | Peta Gilliland Landscape Design | Amendment 17/04/15 |

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

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

6. Asbestos works

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

Reason: To ensure public safety

7. Notice of commencement

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

Reason: Statutory requirement.

8. Notification of builder's details

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

Reason: Statutory requirement.

9. Dilapidation photos (public infrastructure)

Prior to the commencement of any works on site the applicant must submit to Ku-ring-gai Council and the Principal Certifying Authority a photographic record on the visible condition of the existing public infrastructure **over the full site frontage** (in colour - preferably saved to cd-rom in 'jpg' format). The photos must include detail of:

- The existing footpath
- The existing kerb and gutter
- The existing full road surface between kerbs
- The existing verge area
- The existing driveway and layback where to be retained
- Any existing drainage infrastructure including pits, lintels, grates.

Particular attention must be paid to accurately recording any pre-developed damaged areas on the aforementioned infrastructure so that Council is fully informed when assessing damage to public infrastructure caused as a result of the development (which is not to be repaired by the Applicant as part of the development). The developer may be held liable to all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated under the requirements of this condition prior to the commencement of any works.

Reason: To protect public infrastructure.

10. Dilapidation survey and report (private property)

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

Address:

- 22 St Johns Avenue
- 744, 748 (Windsor House) and 750 Pacific Highway (St Johns Church buildings)

The dilapidation report must include a photographic survey of adjoining properties detailing their physical condition, both internally and externally, including such items as walls ceilings, roof and structural members. The report

must be completed by a consulting structural/geotechnical engineer as determined necessary by that professional based on the excavations for the proposal and the recommendations of the submitted geotechnical report.

In the event that access for undertaking the dilapidation survey is denied by a property owner, the applicant must demonstrate in writing to the satisfaction of the Principal Certifying Authority that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

Note: A copy of the dilapidation report is to be provided to Council prior to any excavation works been undertaken. The dilapidation report is for record keeping purposes only and may be used by an applicant or affected property owner to assist in any civil action required to resolve any dispute over damage to adjoining properties arising from works.

Reason: To record the structural condition of likely affected properties before works commence.

11. Erosion and drainage management

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

Reason: To preserve and enhance the natural environment.

12. Marking of trees to be removed

All trees that are to be removed within the Blue Gum High Forest conservation area and the development area, are to be clearly marked on site

by the Project Arborist in accordance with the approved plans. All other trees are to be retained.

Reason: To protect existing trees during the construction phase.

13. Tree protection measures

To preserve the following tree/s, no work shall commence until the area beneath their canopy is fenced off or protected as shown on the following plan/s, to prevent any activities, storage or the disposal of materials within the fenced area. The ground protection and tree protection fence/s shall be maintained intact until the completion of all demolition/building work on site.

Schedule

| Tree/location | Radius from trunk |
|--|--------------------------|
| Tree 20/ <i>Magnolia x soulangiana</i> (<i>Magnolia</i>) This tree is located on the western boundary of the site. | 3.1m |
| Tree 21/ <i>Tiboucina granulosa</i> (<i>Purple Glory Tree</i>) This tree is located on the northwest corner of 746A Pacific Highway. | 3.8m |

The tree protection fencing shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres in height prior to work commencing. Ground protection should be in accordance with Section 4.5 of AS4970-2009 Protection of trees on development sites.

Reason: To protect existing trees during construction phase

14. Tree protective fencing type galvanised mesh

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

Reason: To protect existing trees during construction phase.

15. Tree protection signage

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

Tree protection zone.

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

Reason: To protect existing trees during the construction phase.

16. Tree fencing inspection

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

Reason: To protect existing trees during the construction phase.

17. Construction waste management plan

Prior to the commencement of any works, the Principal Certifying Authority shall be satisfied that a waste management plan, prepared by a suitably qualified person, has been prepared in accordance with Council's DCP 40 - Construction and Demolition Waste Management.

The plan shall address all issues identified in DCP 40, including but not limited to: the estimated volume of waste and method for disposal for the construction and operation phases of the development.

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

Reason: To ensure appropriate management of construction waste.

18. Noise and vibration management plan

Prior to the commencement of any works, a noise and vibration management plan is to be prepared by a suitably qualified expert addressing the likely noise and vibration from demolition, excavation and construction of the proposed development and provided to the Principal Certifying Authority. The management plan is to identify amelioration measures to achieve the best practice objectives of AS 2436-2010 and NSW Department of Environment and Climate Change Interim Construction Noise Guidelines. The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works.

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

- identification of the specific activities that will be carried out and associated noise sources
- identification of all potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment
- the construction noise objective specified in the conditions of this

consent

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

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

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

19. Waste storage

A fully enclosed waste storage area, sufficient in size to store all garbage, clinical waste and recycling bins from the premises, must be provided in an easily accessible location and close to a waste collection point. The enclosed waste storage area must be easily cleanable; graded and drained to a floor waste which is connected to sewer; and have a water tap in close proximity to facilitate cleaning. All used sharps are to be stored in containers complying with AS 4031-1992 or AS 4261-1994. Details of the storage area as above are

to be provided to the Principal Certifying Authority at the Construction Certificate stage.

Reason: To protect public health.

20. Noise mitigation

The development should be designed such that traffic noise from adjacent public roads is mitigated by durable materials and comply with requirements of Clause 102 (impact of road noise or vibration on non-road development) of State Environmental Planning Policy (Infrastructure) 2007.

Reason: RMS requirement.

21. Amendments to approved landscape plan

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

| Plan no. | Drawn by | Dated |
|-----------------|---------------------------------------|--------------|
| L001 Revision F | Peta Gilliland Landscape Design | 17/04/15 |

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

1. The proposed planting of *Waterhousia floribunda* at the north east corner of the rear carpark to Windsor House is to be substituted with a more formal evergreen tree such as *Magnolia grandiflora* 'Exmouth' or *Juniperus* 'Spartan' or similar.

2. Existing screen planting located along the western boundary at the north west corner of the site is to be shown to be retained.
3. The proposed canopy tree planting of *Angophora costata* directly south of Windsor House is to be replaced with a smaller exotic evergreen tree such as *Arbutus unedo* or similar. The *Angophora costata* is to be relocated directly south of the proposed tree of the same species at the rear of No 740 Pacific Highway.
4. The proposed medium tree planting of *Elaeocarpus reticulatus* on the eastern boundary at the rear of No. 744 Pacific Highway is to be replaced with *Tristania laurina* or similar. The trees are to be shown at minimum 3 metres centres.
5. The proposed strip of lawn within the southern access handle is to be replaced with shrub and ground cover planting.
6. The extent of 'face bricked landscaped wall' along the northern boundary adjoining St John's Church is to be amended in accordance with the wall shown on the architectural plans. The wall is to be maximum of 1.8m in height.
7. To provide sufficient deep soil for effective landscape treatment to the side setbacks, all retaining walls to the proposed access path are to be set back a minimum of 3.5m from the western boundary.

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

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

Reason: To ensure adequate landscaping of the site.

22. Amendments to approved engineering plans

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

| Plan no. | Drawn by | Dated |
|---|-----------------|--------------|
| 14-183 DAC01B (but Issue A in title block) AT&L | 14-11-14 | |
| 14-183 DAC02E | AT&L | 16-04-15 |

The above engineering plan(s) shall be amended as follows:

Additional construction stage details are to be provided to demonstrate that the design, including for the interallotment drainage line, generally complies with Volume C Part 4 of Ku-ring-gai Local Centres Development Control Plan, including Part 4R.6.

Note: An amended engineering plan, prepared by a qualified engineer shall be submitted to the Certifying Authority.

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

23. Long service levy

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

authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided to Council.

Reason: Statutory requirement.

24. Builder's indemnity insurance

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

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

Reason: Statutory requirement.

25. Access for people with disabilities (commercial)

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

Compliant access provisions for people with disabilities shall be clearly shown on the plans submitted with the Construction Certificate. All details shall be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate. All details shall be prepared in consideration of the

Disability Discrimination Act and the relevant provisions of AS1428.1, AS1428.2, AS1428.4 and AS 1735.12.

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

26. Excavation for services

Prior to the issue of the Construction Certificate, the Principal Certifying Authority shall be satisfied that no proposed underground services (ie: water, sewerage, drainage, gas or other service) unless previously approved by conditions of consent, are located beneath the canopy of any tree protected under Council's Tree Preservation Order, located on the subject allotment and adjoining allotments.

Note: A plan detailing the routes of these services and trees protected under the Tree Preservation Order shall be submitted to the Principal Certifying Authority.

Reason: To ensure the protection of trees.

27. Noise from plant in residential zone

Where any form of mechanical ventilation equipment or other noise generating plant is proposed as part of the development, prior to the issue of the Construction Certificate the Certifying Authority, shall be satisfied that the operation of an individual piece of equipment or operation of equipment in combination will not exceed more than 5dB(A) above the background level during the day when measured at the site's boundaries and shall not exceed the background level at night (10.00pm -6.00 am) when measured at the boundary of the site.

C1. Note: A certificate from an appropriately qualified acoustic engineer is to be submitted with the Construction Certificate, certifying that

all mechanical ventilation equipment or other noise generating plant in isolation or in combination with other plant will comply with the above requirements.

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

28. Driveway crossing levels

The design and construction of the vehicular crossing on Pacific Highway shall be in accordance with RMS's requirements. Details of these requirements should be obtained from RMS's Project Services Manager, Traffic Projects Section, Parramatta (Telephone 8849-2496).

Detailed design plans of the proposed vehicular crossing are to be submitted to RMS for approval prior to the commencement of any road works.

A plan checking fee (amount to be advised) and lodgment of a performance bond may be required from the applicant prior to the release of the approved road design plans by RMS.

Reason: To comply with Roads and Maritime Services requirements.

29. Energy Australia requirements

Prior to issue of the Construction Certificate, the applicant must contact Energy Australia regarding power supply for the subject development. A written response detailing the full requirements of Energy Australia (including any need for underground cabling, substations or similar within or in the vicinity the development) shall be submitted to the Principal Certifying Authority for approval prior to issue of the Construction Certificate.

Any structures or other requirements of Energy Australia shall be indicated on the plans issued with the Construction Certificate, to the satisfaction of the Principal Certifying Authority and Energy Australia. The requirements of

Energy Australia must be met in full prior to issue of the Occupation Certificate.

Reason: To ensure compliance with the requirements of Energy Australia.

30. Utility provider requirements

Prior to issue of the Construction Certificate, the applicant must make contact with all relevant utility providers whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained. All utility services or appropriate conduits for the same must be provided by the developer in accordance with the specifications of the utility providers.

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

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

31. Infrastructure restorations fee

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

- a) All work or activity taken in furtherance of the development the subject of this approval must be undertaken in a manner to avoid damage to Council Property and must not jeopardise the safety of any person using or occupying the adjacent public areas.
- b) The applicant, builder, developer or any person acting in reliance on this approval shall be responsible for making good any damage to Council Property, and for the removal from Council Property of any

waste bin, building materials, sediment, silt, or any other material or article.

- c) The Infrastructure Restoration Fee must be paid to the Council by the applicant prior to both the issue of the Construction Certificate and the commencement of any earthworks or construction.
- d) In consideration of payment of the Infrastructure Restorations Fee, Council will undertake such inspections of Council Property as Council considers necessary and also undertake, on behalf of the applicant, such restoration work to Council Property, if any, that Council considers necessary as a consequence of the development. The provision of such restoration work by the Council does not absolve any person of the responsibilities contained in (a) to (b) above. Restoration work to be undertaken by the Council referred to in this condition is limited to work that can be undertaken by Council at a cost of not more than the Infrastructure Restorations Fee payable pursuant to this condition.
- e) In this condition:

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

"Infrastructure Restoration Fee" means the Infrastructure Restorations Fee calculated in accordance with the Schedule of Fees & Charges adopted by Council as at the date of payment and the cost of any inspections required by the Council of Council Property associated with this condition.

Reason: To maintain public infrastructure.

32. Construction traffic management plan (Roads and Maritime Services condition)

Prior to the commencement of any works on the site or prior to the issue of a Construction Certificate (whichever comes first), a Construction Traffic Management Plan, detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control, shall be submitted to RMS and Council for determination.

Heavy vehicle movements relating to demolition or construction works are not to be undertaken during the AM, PM and School Zone peaks.

A Road Occupancy Licence should be obtained from TMC for any works that may impact on traffic flows on Pacific Highway during construction activities.

All construction activity associated with the proposed development is to be contained on site as no construction zones will be permitted on Pacific Highway in the vicinity of the site.

During construction, RMS supports entry in a forward direction and exiting the site via a reverse manoeuvre under the direction of an accredited RMS approved traffic controller. Traffic controllers are to find appropriate gaps in traffic on Pacific Highway when vehicles are reversing from the site.

Reason: To comply with Roads and Maritime Services requirements.

33. Section 94 Contributions - Centres.

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

| Key Community Infrastructure | Amount |
|-------------------------------------|---------------|
| Gordon TC New Roads & Road Mods | \$630,545.65 |

| | |
|--|---------------------|
| Gordon TC Local Parks & Sporting Facilities | (cr) - \$59,834.64 |
| Gordon TC Townscape Transport & Pedestrian Fac | (cr) - \$31,787.94 |
| LGA Wide Local Recreational & Cultural | (cr) - \$8,894.64 |
| Development Contributions Total: | \$530,028.43 |

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

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

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

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

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

34. Road opening permit

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

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

35. Prescribed conditions

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

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

Reason: Statutory requirement.

36. Hours of work

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

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

Where it is necessary for works to occur outside of these hours (ie) placement of concrete for large floor areas on large residential/commercial developments or where building processes require the use of oversized trucks and/or cranes that are restricted by the RTA from travelling during daylight

hours to deliver, erect or remove machinery, tower cranes, pre-cast panels, beams, tanks or service equipment to or from the site, approval for such activities will be subject to the issue of an "outside of hours works permit" from Council as well as notification of the surrounding properties likely to be affected by the proposed works.

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

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

37. Temporary irrigation

Temporary irrigation within the Tree Protection Fencing is to be provided. Irrigation volumes are to be determined by the Project Arborist.

Reason: To protect trees to be retained on site.

38. Demolition of existing site structures

To preserve the health and condition of existing trees to be retained, all demolition of existing building and landscape structures including tree removal, are to be undertaken within the access restricted to the existing driveways and building platforms. Where vehicular access is required across existing soft landscape area, temporary ground protection capable of supporting the vehicles is to be constructed in accordance with Section 4.5.3, AS4970-2009 Protection of trees on development sites.

Reason: To protect trees to be retained on site.

39. Approved plans to be on site

A copy of all approved and certified plans, specifications and documents incorporating conditions of consent and certification (including the

Construction Certificate if required for the work) shall be kept on site at all times during the demolition, excavation and construction phases and must be readily available to any officer of Council or the Principal Certifying Authority.

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

40. Statement of compliance with Australian Standards

The demolition work shall comply with the provisions of Australian Standard AS2601: 2001 The Demolition of Structures. The work plans required by AS2601: 2001 shall be accompanied by a written statement from a suitably qualified person that the proposal contained in the work plan comply with the safety requirements of the Standard. The work plan and the statement of compliance shall be submitted to the satisfaction of the Principal Certifying Authority prior to the commencement of any works.

Reason: To ensure compliance with the Australian Standards.

41. Site notice

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

The site notice must:

- be prominently displayed at the boundaries of the site for the purposes of informing the public that unauthorised entry to the site is not permitted
- display project details including, but not limited to the details of the builder, Principal Certifying Authority and structural engineer
- be durable and weatherproof
- display the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and

- 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice
- be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted

Reason: To ensure public safety and public information.

42. Further geotechnical input

The geotechnical and hydrogeological works implementation, inspection, testing and monitoring program for the excavation and construction works must be in accordance with the report by **JK Geotechnics dated 16 April 2014**. Over the course of the works, a qualified geotechnical/hydrogeological engineer must complete the following:

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

Reason: To ensure the safety and protection of property.

43. Compliance with submitted geotechnical report

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

Geotechnical aspects of the development work, namely:

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

must be undertaken in accordance with the recommendations of the geotechnical report prepared by **JK Geotechnics dated 16 April 2014**. Approval must be obtained from all affected property owners, including Kuring-gai Council, where rock anchors (both temporary and permanent) are proposed below adjoining property(ies).

Reason: To ensure the safety and protection of property.

44. Road reserve safety

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

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

45. Services

Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the applicants' full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services

(including water, phone, gas and the like). Council accepts no responsibility for any matter arising from its approval to this application involving any influence upon utility services provided by another authority.

Reason: Provision of utility services.

46. Sydney Water Section 73 Compliance Certificate

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

Reason: Statutory requirement.

47. Arborist's report

The trees to be retained shall be inspected and monitored by an AQF Level 5 Arborist in accordance with AS4970-2009 during and after completion of development works to ensure their long term survival. Regular inspections and documentation from the project arborist to the Principal Certifying Authority are required at the following times or phases of work. All reports should include dated, a brief description of the trees inspected, and any mitigation works prescribed. An arborist report prepared by Landscape Matrix, dated 10/07/13, has been submitted as part of the application. Tree numbers refer to this report.

Schedule

Tree/location

Time of inspection

| | |
|---|--|
| Tree 9/ <i>Syagrus romanzoffiana</i> (Cocos Palm)This tree is located on the southern side of the existing driveway, within the adjoining property. | Hand excavation for retaining wall construction to be supervised by the Project Arborist |
| Tree 20/ <i>Magnolia x soulangiana</i> (<i>Magnolia</i>)This tree is located on the western boundary of the site. | Hand excavation for path to be supervised by the Project Arborist |

All works as recommended by the project arborist are to be undertaken by an experienced arborist with a minimum AQF Level 3 qualification.

Reason: To ensure protection of existing trees.

48. Treatment of tree roots

If tree roots are required to be severed for the purposes of constructing the approved works, they shall be cut cleanly by hand, by an experienced Arborist/Horticulturist with a minimum qualification of Horticulture Certificate or Tree Surgery Certificate. All pruning works shall be undertaken as specified in Australian Standard 4373-2007 - Pruning of Amenity Trees.

Reason: To protect existing trees.

49. Hand excavation

All excavation, excluding for basement, within the specified radius of the trunk(s) of the following tree(s) shall be hand dug. No tree roots of 50mm or greater in diameter located within the specified radius of the trunk(s) of the following, tree(s) shall be severed or injured in the process of any hand excavation.

Schedule

Tree/location

Radius from

| | trunk |
|--|--------------|
| Tree 9/ <i>Syagrus romanzoffiana</i> (Cocos Palm) This tree is located on the southern side of the existing driveway, within the adjoining property. | 4.0m |
| Tree 20/ <i>Magnolia x soulangiana</i> (<i>Magnolia</i>) This tree is located on the western boundary of the site. | 3.1m |
| Tree 21/ <i>Tiboucina granulosa</i> (<i>Purple Glory Tree</i>) This tree is located on the northwest corner of no. 746A Pacific Highway. | 3.8m |

Reason: To protect existing trees.

50. Thrust boring

Excavation for the installation of any services within the specified radius of the trunk/s of the following tree/s shall utilise the thrust boring method. Thrust boring shall be carried out at least 600mm beneath natural ground level to minimise damage to tree/s root system:

Schedule

| Tree/Location | Radius from trunk |
|---|---------------------------------|
| <i>Grevillea robusta</i> (Silky Oak) | As directed by Project Arborist |
| <i>Celtis sinensis</i> (Chinese Hackberry) | As directed by Project Arborist |
| 8 x semi mature to mature specimens of <i>Melaleuca quinquenervia</i> (Broad Leaved Paperbark); | As directed by Project Arborist |
| 3 x semi mature to mature specimens of <i>Jacaranda mimosifolia</i> (Jacaranda) | As directed by Project Arborist |

Reason: To protect existing trees.

51. No storage of materials beneath trees

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

Reason: To protect existing trees.

52. Removal of refuse

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

Reason: To protect the environment.

53. Canopy replenishment trees to be planted

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

Reason: To maintain the treed character of the area.

54. Removal of noxious plants & weeds

All noxious and/or environmental weed species shall be removed from the property prior to completion of building works:

Reason: To protect the environment.

55. On site retention of waste dockets

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

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

Reason: To protect the environment.

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

56. Noise

All noise generating equipment associated with the use of the premises including but not limited to air conditioning systems, mechanical exhaust and ventilation systems, security gates, lift motors and the like must not exceed the background noise level by more than 5 decibels between 7am and 10pm when measured at the nearest affected residence and property boundary.

Note: Written confirmation from a suitably qualified acoustic consultant that the development achieves compliance with this noise criteria is to be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: To protect the residential amenity.

All noise generating equipment associated with the use of the premises, including but not limited to air conditioning systems, mechanical exhaust and ventilation systems, security gates, lift motors and the like must not exceed the background noise level at all between 10pm and 7am at the nearest affected residence and property boundary.

Note: Written confirmation from a suitably qualified acoustic consultant that the development achieves compliance with this noise criteria is to be

submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: To protect the residential amenity.

57. Easement for waste collection

Prior to the issue of the Final Occupation Certificate, an easement for waste collection is to be created under Section 88B of the Conveyancing Act 1919. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection and shall be to the satisfaction of Council's Development Engineer.

Reason: To permit legal access for Council, Council's contractors and their vehicles over the subject site for waste collection.

58. Lot consolidation

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority is to be satisfied that all the lots including Lot A DP350244 have been consolidated so that the clinic and hospital are on the one single lot.

(Council's endorsement is not required for a plan of consolidation.)

Reason: Orderly development.

59. Mechanical ventilation

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

The installation and performance of the mechanical systems complies with:

- The Building Code of Australia

- Australian Standard AS1668
- Australian Standard AS3666 where applicable

Reason: To protect the amenity of surrounding properties.

60. Completion of landscape works

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

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

61. Completion of tree works

Prior to the release of the Occupation Certificate, the Principal Certifying Authority is to be satisfied that all tree works, including pruning in accordance with AS4373-2007 or remediation works in accordance with AS4370-2009, have been undertaken in accordance with the approved plan(s) and conditions of consent. All monitoring reports shall be provided to the Principal Certifying Authority prior to the release of the Occupation Certificate.

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

62. Accessibility

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

- the lift design and associated functions are compliant with AS 1735.12 & AS 1428.2
- the level and direction of travel, both in lifts and lift lobbies, is audible and visible

- the controls for lifts are accessible to all persons and control buttons and lettering are raised
- international symbols have been used with specifications relating to signs, symbols and size of lettering complying with AS 1428.2
- the height of lettering on signage is in accordance with AS 1428.1 - 1993
- the signs and other information indicating access and services incorporate tactile communication methods in addition to the visual methods

Reason: Disabled access & services.

63. Certification of drainage works

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

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

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

Reason: To protect the environment.

64. WAE plans for stormwater management and disposal

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

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

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

Reason: To protect the environment.

65. OSD positive covenant/restriction

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

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

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

Reason: To protect the environment.

66. Easement drainage line construction

Prior to issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that the required interallotment drainage system has been installed and surveyed under the supervision of a designing engineer or equivalent professional.

Note: At the completion of the interallotment works, the following must be submitted to the Principal Certifying Authority for approval:

- details from the supervising engineer that the as-constructed works comply with the approved interallotment design documentation

- a full works as executed drawing of the as built interallotment drainage line (dimensions, grades, materials, invert levels) prepared by a registered surveyor, and details from the surveyor that all drainage structures are wholly contained within existing drainage easement(s)

Reason: To protect the environment.

67. Sydney Water Section 73 Compliance Certificate

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

Reason: Statutory requirement.

68. Certification of as-constructed driveway/carpark

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

- the as-constructed car park complies with the approved Construction Certificate plans and parking spaces are linemarked accordingly
- the completed vehicle access and accommodation arrangements comply with Australian Standard 2890.1 - 2004 "Off-Street car parking" in terms of minimum parking space dimensions
- finished driveway gradients and transitions will not result in the scraping of the underside of cars
- no doors, gates, grilles or other structures have been provided in the access driveways to the basement carpark, which would prevent unrestricted access for internal garbage collection from the basement garbage storage and collection area

- the vehicular headroom requirements of Australian Standard 2890.1 - "Off-street car parking" are met from the public street into and within the applicable areas of the basement carpark.

Note: Evidence from a suitably qualified and experienced traffic/civil engineer indicating compliance with the above is to be provided to and approved by the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Reason: To ensure that vehicular access and accommodation areas are compliant with the consent.

69. Reinstatement of redundant crossings and completion of infrastructure works

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

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

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

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

Reason: To protect the streetscape.

CONDITIONS TO BE SATISFIED AT ALL TIMES:

70. Garbage and recycling facilities

All waste, clinical waste and recycling bins associated with the premises are to be stored within the designated internal waste storage area.

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

71. Food premises

The construction of any food preparation areas installed in the premises shall be in accordance with the requirements of the *Food Act 2003*, Food Standards Code 3.2.3 (Food Premises and Equipment) and Australian Standard 4674-2004 (Design Construction and Fit-out of Food Premises).

Reason: To ensure compliance with food standards.

72. Operational management plan

An Operational Management Plan must be adopted by Management and cover issues such as visiting times, patient use of outdoor areas, noise management techniques, complaints handling and security. A copy must be kept onsite in the main office.

Reason: To ensure the operation of the facility minimises impact on neighbouring residents.

73. Deliveries & waste collections

All deliveries and waste collections services for the business are to be carried out during hours which minimise noise disturbance to adjoining residential premises.

Reason: To protect the amenity of the surrounding area.

74. Storage and disposal of clinical waste

All clinical waste and sharps generated on the premises is to be stored in a secure location within the premises and handled in accordance with AS 3816 - 1998 *Management of clinical and related wastes*. An agreement with an appropriately licensed waste transporter is required to remove clinical and contaminated waste from the premises. A copy of the service agreement is to be provided if requested by Council.

Reason: To protect public health.

75. Noise control - plant and machinery

All noise generating equipment associated with the use of the premises including but not limited to air conditioning systems, mechanical exhaust and ventilation systems, security gates, lift motors and the like must not exceed the background noise level by more than 5 decibels between 7am and 10pm when measured at the nearest affected residence and property boundary.

All noise generating equipment associated with the use of the premises, including but not limited to air conditioning systems, mechanical exhaust and ventilation systems, security gates and lift motors, garbage truck reversing alarms, ducting and the like must not exceed the background noise level at all between 10pm and 7am at the nearest affected residence and property boundary.

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

76. Pedestrian access

Safe and accessible pedestrian access is to be provided through the lower carpark, between the exit and into the communal open space.

Reason: To provide for safe and accessible pedestrian passage.

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 | Description | TRIM No. |
|------------|--|-------------|
| A | Revised clause 4.6 variation request | 2015/100485 |
| B | Planning Consultant letter responding to JRPP deferral | 2015/094090 |
| C | architectural plans | 2015/096385 |
| D | landscape plans | 2015/096383 |
| E | stormwater plans | 2015/096381 |
| F | assessment report considered by JRPP | 2014/201781 |

| | | |
|---|---|--------------|
| | at its meetings on 11 September 2014 and on 8 April 2015 | 2015//031349 |
| G | JRPP Record of Deferral | 2015/099250 |