

17 April 2015

**Our Ref:** P-12094

**The General Manager**

Ku-ring-gai Council  
818 Pacific Highway  
GORDON NSW 2072

Dear Sir,

cc: Sydney West JRPP

RE: 2013SYW094 - DA NO. 03027/13 – 742, 746, 746A & 748 PACIFIC HIGHWAY, GORDON, LAWSON CLINIC - AMENDED PROPOSAL IN RESPONSE TO THE JRPP'S RECORD OF DEFERRAL DATED 8 APRIL 2015

Please find enclosed the amended design and supporting documentation for the above Development Application (DA). This submission reflects the JRPP's record of deferral dated 8 April 2015. A summary of the revised scheme and development statistics is provided in Section 1 below. Each of the points raised in the JRPP's record of deferral are also addressed in detail in Section 2 below.

1. Summary of the Revised Proposal

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

- Construction of a three storey building which presents as two storeys for the northern component with a gross floor area of 3,070.7sqm.
- The consolidation of three (3) lots (Lots 1 & 2 DP 851223 and Lot C DP 337904) into a single lot with the realignment of the boundary of Lot A DP 350224 to result in 2 lots of 3,444.1sqm and 1,271.5sqm respectively.
- Demolition of three (3) existing dwellings and associated garage and carport.
- The inclusion of 64 mental health inpatient beds.
- A combination of at grade and basement car parking comprising 41 spaces (including additional 6 car spaces), 1 ambulance bay and dedicated waste truck space.
- Upgrading of two (2) existing vehicular access points to the site from the Pacific Highway with the southern driveway being converted to a landscaped area with a pedestrian path.

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

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

Table 1: Revised Development Statistics

Site Area	4,715.6sqm over 2 lots
Building site coverage	Lot 1: 1,135sqm / 36% Lot 2: 450sqm / 32%
GFA	3070.9sqm
FSR	0.65:1
Landscape Area	36.5% (1560.95sqm)
Deep Soil Zone	31.9% (1367.0sqm)
On-site Car Parking	41 car parking spaces + 1 ambulance bay 1 service vehicle loading bay (total 43 parking spaces)
Patient Beds	64
Patient Rooms	48
Staff - Day	4 - 8 doctors 6 administrative staff 9 nurses

	2 cleaners
Staff - Night	1 - 2 admin staff after hours / weekends  6 nurses  2 cleaners
Operating Hours	Lawson Clinic operations from 748 Pacific Highway, Gordon to continue to operate at current hours.  Inpatient unit to operate 24 hours / 7 days.

## 2. Issues Raised by the JRPP

Council's assessment report was considered by the JRPP at its meeting on 8 April 2015 where it was resolved to defer the determination pending the submission of additional information by the applicant, which includes the following points:

Information Requested by JRPP	Response
<b>1. Reduction of the height non compliance to the greatest extent practicable by adjusting the Western lift bay and stairwell.</b>	<ul style="list-style-type: none"> <li>▪ The height non compliance is reduced from 1.3m to 690mm (for details refer Section 3.1).</li> <li>▪ The non complaint part of the roof is only 3.7 % of the total roof area.</li> <li>▪ The non compliant parts of the roof are further recessed back from the western and southern boundaries of the roof.</li> <li>▪ The amended plans are enclosed with this letter (refer Drawing Nos DA-05.03 DA-04.02, DA-05.29, DA-05.01, DA-03.01, DA-03.02 and DA-04.02).</li> </ul>
<b>2. Add an additional 6 car parking spaces underneath the building</b>	<ul style="list-style-type: none"> <li>▪ 6 additional car parking spaces are provided underneath the building.</li> <li>▪ Overall the proposal includes 41 car parking spaces plus 1 ambulance bay and 1 service vehicle loading bay (total 43 parking spaces).</li> <li>▪ The amended Carparking Plan is</li> </ul>

	enclosed with this letter (refer Drawing No DA-01.04).
<b>3. 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</b>	<ul style="list-style-type: none"> <li>▪ Landscape area is increased to 36.5% from 35.1% which results in a total of 57.68sqm of additional landscaping area (for details refer Section 3.3).</li> <li>▪ Additional landscaping including 5m-10m high trees are provided (for screening the development) to the rear of 744 Pacific Highway, on 748 Pacific Highway by reducing the internal driveway width (for details refer Section 3.3).</li> <li>▪ The amended Site plan and Landscape Plans are enclosed with this letter (refer Drawing Nos DA-01.01 DA7, L001 and L002).</li> </ul>
<b>4. Provide details of all fencing</b>	<ul style="list-style-type: none"> <li>▪ The fencing details are provided on the amended Site Plan (refer Drawing No DA-01.01 DA7).</li> </ul>
<b>5. Reconcile inconsistencies within the plans.</b>	<ul style="list-style-type: none"> <li>▪ The plans are modified and a consistent set of plans is provided with this letter (for details refer Section 3.5).</li> </ul>

### **3. Summary of the Panel's Decision**

The following is a list of the points raised by the Panel, with a response on behalf of the applicant which explains how each item is resolved.

#### **3.1 Reduction of the height non compliance to the greatest extent practicable by adjusting the Western lift bay and stairwell.**

**Response:** The western lift bay and stairwell have been modified to reduce the height of the building as indicated on the following figures (refer the Proposed Elevations Drawing Nos. DA-05.01 DA7, DA-03.01 DA7 and DA-03.02 DA7).

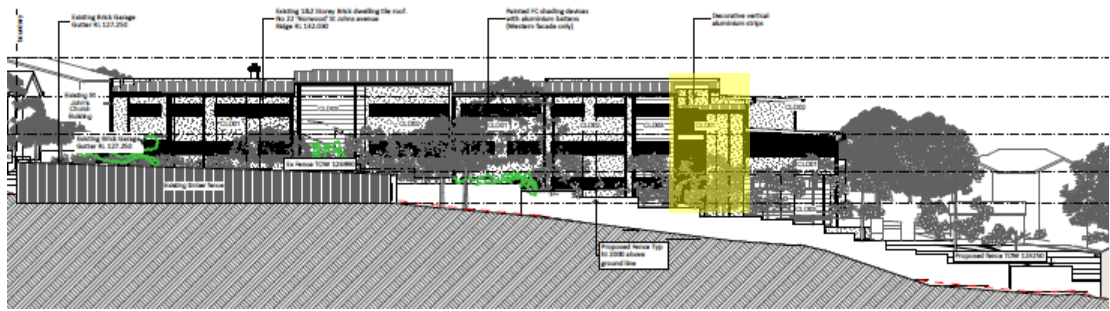


Figure 1: Proposed west elevation (Drawing No. DA-05.01 DA7)- yellow fill indicating the amended part

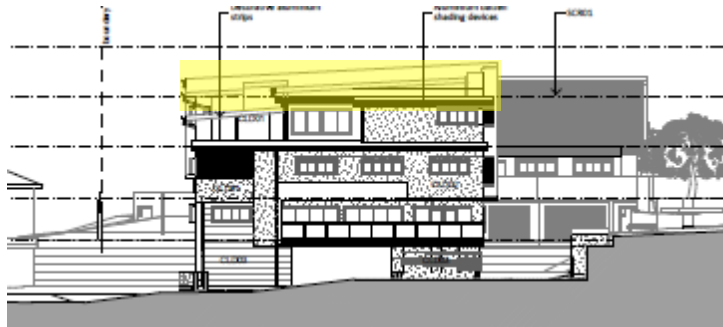


Figure 2: Proposed south elevation (Drawing No. DA-03.02 DA7)- yellow fill indicating the amended part

As shown on the accompanying Height Overruns Plans (Drawing No DA-05.03 DA7) and Roof Plan (Drawing No. DA-05.29 DA7) the extent of the non compliance is minimised (refer the following figures). The maximum non compliance of 690mm occurs at the lift overrun (refer figure 5 - Drawing No. DA-04.02 DA7) which is recessed back from the western and southern boundaries of the roof that has a total area of only 8sqm as indicated on the Figure 4 (refer Drawing No. DA 05.29 DA7).

It is important to note that this part of the roof is provided with a setback of approximately 9m from the western boundary and 35.5m from the southern boundary of the site to minimise any visual impact. Other minor non compliances of 390mm occur at southern parts of the roof on lounge 4B and double SOU (Bed Nos.49 and 50) which are recessed back from the southern and western boundaries of the roof. These parts of the roof are provided with a setback of approximately 11m and 16m respectively from the western boundary to minimise any visual impact. Also, these parts are provided with significant setbacks (approximately 31.5m and 27.5m respectively) from the southern boundary of the site.

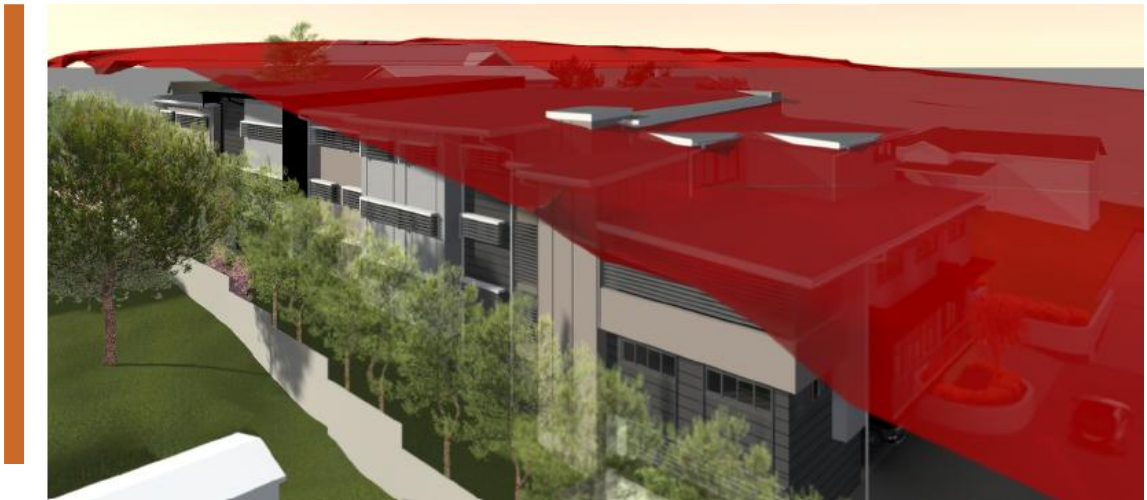


Figure 3: Height Overrun indicating the height non compliance by red plane (Drawing No.DA-05.03 DA7)

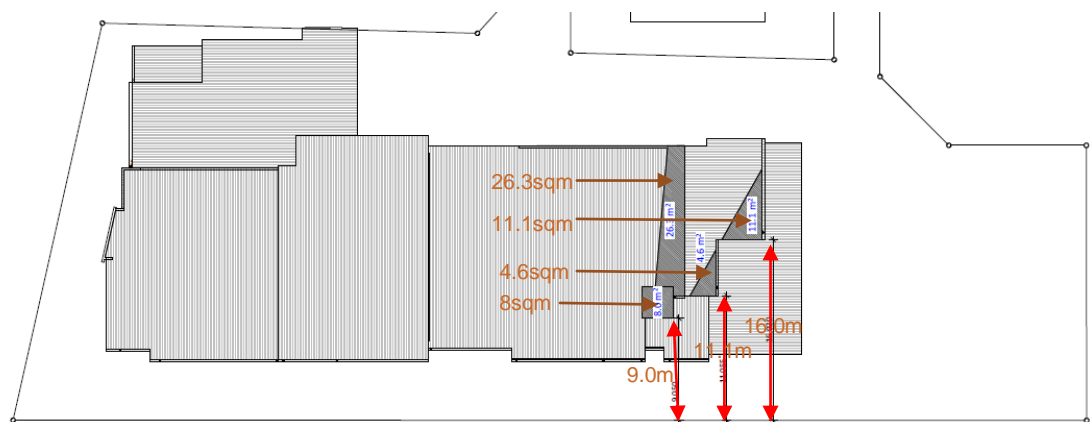


Figure 4: Roof Plan indicating the non compliant parts of the roof (Drawing No. DA-05.29 DA7)

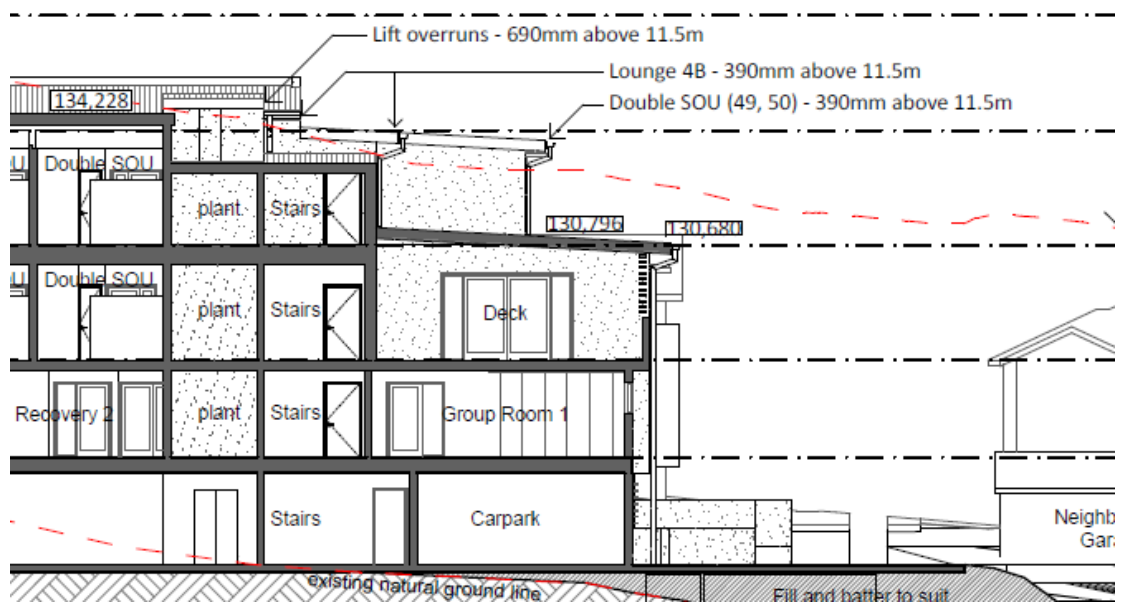


Figure 5: Proposed section indicating the non complaint parts of the roof (Drawing No. DA-04.02 DA7)

In addition to the above it is important to note that the non compliant parts of the roof have a total area of 50sqm which is only 3.7% of the total roof area (1,337.4sqm). The rest of the roof area remains compliant as indicated in the above figure (Roof Plan Drawing No. DA-05.29 DA7). Overall, the building is lower than the height limit for the majority of its length and has a setback greater than required. There are no openings/balconies at the western elevation to minimise the impact to the adjoining properties.

The presentation of the southern end of the building is designed to be recessive and comprise passive uses and is therefore sensitive to the surrounding residential uses. In addition, the southern portion of the development is designed to mitigate overlooking and overshadowing impacts on the neighbouring properties. It also comprises architectural design techniques to break up the presentation of the building. Overall, the design of the building takes into account the zone interface and provides a building which suitably transitions between the neighbouring dwellings and the potential future three storey developments along the Pacific Highway frontage.

Given this, the proposal has been designed with every effort to minimise the visual impact of the building from the surrounding properties in terms of setbacks from the boundaries, landscaping and the format and massing of the building.

The references to the DCP being applied by Council refer to residential flat buildings, which is a different building form and land use to that which is being proposed. A flat building in this location built to the maximum height of 11.5m would have a far greater visual impact on adjoining properties as a residential flat building would assume a large number and size of window and door openings as well as balconies along its facades.

This high level of activity may warrant an increased setback as suggested by Council. However, the proposed building form and land use results in a largely self-contained building with the focus of the activity away from the neighbouring properties. This is reinforced through the high set windows which are unopenable and treated with privacy screens to deter direct views to neighbouring properties (refer the Proposed West Elevation- Figure 1).

Moreover, the proposed development will address an urgent community need and provide Ku-ring-gai with essential mental health infrastructure not currently provided by either the private or public sectors. The viability of the development is dependent on the provision of a unit with a capacity of 64 beds. Below this threshold, the feasibility of constructing and operating the unit may become untenable.

### **3.2 Add an additional 6 car parking spaces underneath the building**

**Response:** The proposal provides an amended basement parking area to include 6 additional parking spaces. Please refer the amended Car Park Plan (Drawing No. DA-01.04 DA7). The proposal provides a total of 41 car parking spaces plus 1 ambulance bay and 1 service vehicle loading bay which results in provision of a total 43 car parking spaces as required by Council.



Whilst the additional spaces have been incorporated in response to the JRPP's record of deferral, we maintain our position, as previously documented and expressed at the meeting, that the additional spaces are unnecessary for the proposed use, based on an erroneous categorisation of the land use and the application of Council's DCP to the specific characteristics of the use and its accessible location relative to the railway station. We believe the result is an unwarranted oversupply of parking on the site.

### **3.3 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**

**Response:** The Landscape Plans (Drawing Nos. L001 and L002) have been amended to include additional landscaping to the rear (to the east of the site) of 744 Pacific Highway by reducing the internal driveway width to minimum 5.5m where practicable. As per the traffic engineer's advice, AS2890.1 requires the two vehicles to pass with clearance. The proposed landscaped area to the east of the site is widened to a maximum 2.6m to provide sufficient driveway widths to allow vehicles to pass with clearance as per the requirement indicated in the Carpark Plan (refer Drawing No. DA-01.04 DA7).

The amendment provides an adequate landscaped setback between the rear of the dwelling-house at 744 Pacific Highway and the 3 storey eastern elevation of the hospital. This landscaped setback is provided with appropriate planting which includes:

- **Trees:** Blueberry Ash (5m-10m high), Quandong (8m high) and Dwarf Crepe Myrtle (5m-7m high)
- **Shrubs:** Lillypilly (2m-3m high), Shiny Xylosma (4m-5m high), Gynea Lily/Giant Lily (1.5m-3m high) and Sago Palm (0.7m-0.9m high)

These trees (refer to the Landscape Plan) will provide adequate screening to the eastern boundary of the site and minimise the visual impact on the backyard of the dwelling house at 744 Pacific Highway.

Overall, the total landscaped area has been increased from 35.1% to 36.5% which provides an additional 57.68sqm of landscaped area within the site and results in a total of 31.9% of deep soil area.

It is important to note that the proposal is for the retention of the heritage item and associated car park which occupies a significant amount of hardstand area. This existing situation restricts the opportunity for providing additional landscaping in other areas. Despite this, the proposed landscape treatment respects the garden character of the Heritage Conservation Area and balances the layout of the development and the required fire protection and access paths.

### **3.4 Provide details of all fencing**

**Response:** The details of all the fencing are provided on the Site Plan which is enclosed with the letter (please refer Drawing No. DA-01.01 DA7).



### 3.5 Reconcile inconsistencies within the plans.

This amended scheme is accompanied by a consistent set of plans. The changes are incorporated in the plans as per the following points as indicated in Council's Supplementary Assessment Report:

1. *The 10,000 litres above ground rainwater tank on the stormwater plan is located in the middle of the pathway in the western side setback*

**Response:** The stormwater plan has been amended to indicate underground rainwater tank. Please refer Drawing Nos. DAC02 and DA C03.

2. *The landscape plan indicates that a fence 'to architects detail' is to be constructed over the retaining wall on the rear boundary of 744 Pacific Highway. The architectural plans do not contain any details for the fence.*

**Response:** The development provides 1800mm high timber paling fence. This information has been indicated on the Proposed Site Plan (Drawing No. DA-01.01 DA7).

3. *The sections (DA-04.01 & DA-04.02) do not match the location indicated on the floor plans (DA-02.01 & DA-02.02)*

**Response:** The floor plans and sections are amended. Please refer to Drawing Nos. DA-02.01 DA7, DA-02.02 DA7, DA-04.01 DA7 and DA-04.02 DA7.

4. *The outbuilding at the rear of 3 Bushlands Avenue is described as both a garage and a temporary dwelling. The building is a granny flat and has been located on the site since the late 1980s.*

**Response:** The plans are amended to show the outbuilding at the rear of 3 Bushlands Avenue as a temporary dwelling. Please refer to Drawing Nos. DA-01.01 DA7, DA-01.02 DA7, DA-01.06 DA7, DA-01.07 DA7 and DA-01.08 DA7.

5. *The photomontage shows a row of conifers on the southern side of the northern access handle. The landscape plan shows that planting in the 400mm wide planter bed adjacent to the driveway is a grass (Spreading Flax Lilly). The photomontage does not accurately represent the visual character of the proposed driveway.*

**Response:** The photomontage has been modified to indicate the landscaping as per the Landscape Plan. Please refer to Drawing No. DA-05.11 DA7.

6. *The landscape plan provides a top of wall RL for the fence on the boundary with 3 Bushlands Avenue of 123.35. If this RL is correct the top of the fence is 4.67m higher than the gutter of the dwelling at 3 Bushlands Avenue and approximately 7.6m higher than the floor of the patio at the rear of the house."*

**Response:** The landscape plan has been amended which includes a note indicating a new 1800mm high timber paling fence.

#### 4. Section 94s

As per the Council's 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 Kuringgai 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 indicates 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	(cr) -\$59,834.64
Gordon TC Townscape Transport & Pedest Fac	(cr) -\$31,787.94
LGA Wide Local Recreational & Cultural	(cr) -\$8,894.64
<b>Development Contributions Total</b>	<b>\$530,671.07</b>

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' = 3073.7m<sup>2</sup>).

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.

## 5. Conclusion

Further to the above, detailed justification for the proposal was provided in the applicant's response letters dated 22 April 2014, 7 July 2014, 4 September 2014, 25 November 2014 and 8 April 2015. Throughout this extended period, the applicant has sought to be responsive to Council and the proposal has undergone significant redesign to resolve all reasonable concerns raised.

The facility has been designed to ensure that it offers significant community benefits in the form of critically important mental health services whilst not imposing on the privacy and amenity of the neighbouring properties. Substantial efforts have been made by the applicant to balance the concerns of the community and Council with the stringent design requirements of NSW Health.

We consider a reasonable balance has been reached and hope that favourable consideration will now be given to the proposal. If you require any further clarification of details with regard to the above items, please do not hesitate to contact me on 8270 3500.

Yours Faithfully,



**David Ryan**  
Executive Director

### *Attachments:*

- Amended Architectural Plans prepared by Elevation Architecture.
- Amended Landscape Plan prepared by Peta Gilliland Landscape Design.
- Supplementary statement for review of parking layout and vehicle access by TTW
- Amended Stormwater Plans prepared by AT&L.
- Appendix I
  - Letter sent by Council dated 8 April 2015 regarding Development Contribution; and
  - Summary Schedule (page 9) of Ku-ring-gai Contributions Plan 2010.