

JOINT REGIONAL PLANNING PANEL (Sydney Region East)

JRPP No	2014SYE114
DA Number	2015/0332
Local Government Area	Canada Bay Council
Proposed Development	Partial demolition and construction of a new building for use as a residential aged care facility with accommodation for 161 persons, basement carparking, alterations and additions to existing hall building, tree removal and landscaping, waste facilities, new fencing, signage and associated site infrastructure
Street Address	17 Millar Street, Drummoyne <ul style="list-style-type: none"> • Lot 1 DP795487 and Lot 6 DP9735
Applicant/Owner	Scalabrini Village Pty Ltd
Number of Submissions	Sixteen (16) submissions in total including 13 objections and 3 in support of the proposal Primary issues raised relate to building height, bulk and scale, traffic and parking and landscaping
Regional Development Criteria (Schedule 4A of Act)	Capital Investment Value (CIV) greater than \$20 million (\$56,018,160 declared)
List of All Relevant s79C(1)(a) Matters	<u>Environmental Planning Instruments</u> <ul style="list-style-type: none"> • State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP) • State Environmental Planning Policy No. 55 - Remediation of Land • Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005; deemed SEPP • Canada Bay Local Environmental Plan 2013 <u>Non Statutory Planning Policies</u> <ul style="list-style-type: none"> • City of Canada Bay Development Control Plan 2013
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Architectural Design Statement prepared by Bickerton Masters Architecture, dated 26 August 2015 • Statement of Environmental Effects prepared by JBA Urban Planning Consultants Pty Ltd, dated August 2015 (Ref. 13268), including all tables and appendices (reviewed and signed off 30/08/2015) • Pre-Development Application Advice prepared by Canada Bay Council, dated 4 September 2013 • Notice of Determination DA459/2014 • Food Services Facilities – Report on how the kitchens meet Council requirements, prepared by The Mack Group, dated 03/02/15 • Geotechnical Assessment prepared by Douglas Partners, dated

November 2014, Project No. 73642.00

- Preliminary Site Contamination Investigation prepared by Douglas Partners, dated July 2014, Project No. 73642.01 Rev 1
- Balcony Landscape Screening prepared by Arterra Design Pty Ltd, dated 9 March 2015
- Arboricultural Impact Assessment Report, prepared by Arterra Design Pty Ltd, dated 26 August 2015, Project AIA-01 (Revision C)
- Stormwater Drainage Letter, prepared by Northrop, dated 22/01/2015
- Section J Statement of Compliance, prepared by Northrop, dated 29 October 2014, Job No. 13.0376
- Operational Waste Management Plan, prepared by The Mack Group, dated 27 August 2015
- Accessibility Design Review prepared by ABE Consulting, dated 10 November 2014, report version: ADR3041v1.1
- Clause 4.6 Variation to Development Standard - Clause 4.3 Height of Buildings (CBLEP), prepared by JBA, dated August 2015 (now amended – see list of Additional Documents below Submitted by the Applicant on 29 October 2015)
- Clause 4.6 Variation to Development Standard - Clause 4.4 Floor space ratio (CBLEP), prepared by JBA, dated August 2015 (now amended – see list of Additional Documents below Submitted by the Applicant on 29 October 2015)
- SEPP 1 Variation to Clause 40(4) (Building height) – *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004*, prepared by JBA, dated August 2015
- Clause 4.6 Variation to development standard as it relates to Clause 40(4) Building height – *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004*, prepared by JBA, dated August 2015 (now amended – see list of Additional Documents below Submitted by the Applicant on 29 October 2015)
- Transport Report prepared, by Arup, dated 16 November 2014, Job No. 232646 rev A
- Noise Impact Assessment, prepared by Acoustic Logic, dated 27/10/2014, doc. ref. 2014442.1/2304A/R1/BW (revision1)
- BCA Report prepared by McKenzie Group, (revision D, date 03/11/14), ref: 065029-05BCA
- Statement of Structural Design Intent, prepared by Partridge Structural Pty, dated 10 November 2014
- Preliminary Construction Management Plan prepared by Bickerton Masters Architects, dated 12 November 2014
- Architectural Drawings prepared by Bickerton Masters Architecture:

<i>Drawing Ref. No.</i>	<i>Name of Plan</i>	<i>Prepared by</i>	<i>Date</i>
966 DA000 (revision 2, 24/08/2015)	Cover Page	Bickerton Masters Architecture	Nov 2014
966 DA101 (revision 1, 12/11/2014)	Site Analysis	Bickerton Masters Architecture	Nov 2014
966 DA102 (revision 2, 20/08/2015)	Existing & Demolition Site Plan	Bickerton Masters Architecture	Nov 2014
966 DA103 (revision 2, 24/08/2015)	Proposed Site Plan - Location	Bickerton Masters Architecture	Nov 2014
966 DA104 (revision 2, 24/08/2015)	Proposed Site Plan	Bickerton Masters Architecture	Nov 2014
966 DA111 (revision 3, 03/02/2015)	Proposed Basement Plan	Bickerton Masters Architecture	Nov 2014
966 DA112 (revision 4, 24/08/2015)	Proposed Ground Floor Plan	Bickerton Masters Architecture	Nov 2014
966 DA113 (revision 2, 24/08/2015)	Proposed Level 1 Plan	Bickerton Masters Architecture	Nov 2014
966 DA114 (revision 2, 24/08/2015)	Proposed Level 2 Plan	Bickerton Masters Architecture	Nov 2014

	1224/08/2015		Architecture	
	966 DA115 (revision 1, 12/11/2014)	Proposed Level 3 Plan	Bickerton Masters Architecture	Nov 2014
	966 DA121 (revision 2, 24/08/2015)	Proposed Roof Plan	Bickerton Masters Architecture	Nov 2014
	966 DA201 (revision 2, 24/08/2015)	Existing & Proposed Elevations	Bickerton Masters Architecture	Nov 2014
	966 DA202 (revision 1, 12/11/2014)	Existing & Proposed Elevations	Bickerton Masters Architecture	Nov 2014
	966 DA203 (revision 2, 24/08/2015)	Proposed Elevations & Sections	Bickerton Masters Architecture	Nov 2014
	966 DA204 (revision 2, 24/08/2015)	Proposed Elevations – Materials & Finishes	Bickerton Masters Architecture	Nov 2014
	966 DA205 (revision 1, 12/11/2014)	Proposed Elevations – Materials & Finishes	Bickerton Masters Architecture	Nov 2014
	966 DA206 (revision 1, 12/11/2014)	Proposed Elevations – Materials & Finishes	Bickerton Masters Architecture	Nov 2014
	966 DA207 (revision 2, 24/08/2015)	Proposed Elevations – Presentation	Bickerton Masters Architecture	Nov 2014
	966 DA208 (revision 1, 12/11/2014)	Proposed Elevations – Presentation	Bickerton Masters Architecture	Nov 2014
	966 DA301 (revision 2, 24/08/2015)	Proposed Sections	Bickerton Masters Architecture	Nov 2014
	966 DA401 (revision 1, 12/11/2014)	Shadow Diagram – 21 June – 9.00AM & 10.00AM	Bickerton Masters Architecture	Nov 2014
	966 DA402 (revision 1, 12/11/2014)	Shadow Diagram – 21 June – 11.00AM & 12.00AM	Bickerton Masters Architecture	Nov 2014
	966 DA403 (revision 1, 12/11/2014)	Shadow Diagram – 21 June – 1.00PM & 2.00PM	Bickerton Masters Architecture	Nov 2014
	966 DA404 (revision 1, 12/11/2014)	Shadow Diagram – 21 June – 3.00PM	Bickerton Masters Architecture	Nov 2014
	966 DA411 (revision 1, 12/11/2014)	Solar Study – View 1	Bickerton Masters Architecture	Nov 2014
	966 DA412 (revision 1, 12/11/2014)	Solar Study – View 1	Bickerton Masters Architecture	Nov 2014
	966 DA413 (revision 1, 12/11/2014)	Solar Study – View 1	Bickerton Masters Architecture	Nov 2014
	966 DA414 (revision 1, 12/11/2014)	Solar Study – View 1	Bickerton Masters Architecture	Nov 2014
	966 DA415 (revision 1, 12/11/2014)	Solar Study – View 2	Bickerton Masters Architecture	Nov 2014
	966 DA416 (revision 1, 12/11/2014)	Solar Study – View 2	Bickerton Masters Architecture	Nov 2014
	966 DA417 (revision 1, 12/11/2014)	Solar Study – View 2	Bickerton Masters Architecture	Nov 2014
	966 DA418 (revision 1, 12/11/2014)	Solar Study – View 2	Bickerton Masters Architecture	Nov 2014
	966 DA419 (revision 1, 12/11/2014)	Solar Study – View 3	Bickerton Masters Architecture	Nov 2014
	966 DA420 (revision 1, 12/11/2014)	Solar Study – View 3	Bickerton Masters Architecture	Nov 2014
	966 DA421 (revision 1, 12/11/2014)	Solar Study – View 3	Bickerton Masters Architecture	Nov 2014
	966 DA422 (revision 1, 12/11/2014)	Solar Study – View 3	Bickerton Masters Architecture	Nov 2014
	966 DA501 (revision 1, 12/11/2014)	Landscape Area	Bickerton Masters Architecture	Nov 2014
	L-SD-01) revision C	Landscape Plan – Ground Floor	Arterra Design Pty Ltd	26/08/2015
	L-SD-03) revision A	Landscape Plan – Ground Floor	Arterra Design Pty Ltd	6/11/2014
	966 P001 (revision 2,	Setback Plan	Bickerton Masters	Nov 2014

02/02/2015		Architecture	
966 P002 (revision 2, 03/02/2015)	Refuse Collection Section	Bickerton Masters Architecture	Nov 2014
966 P003 (revision P4, 09/03/2015)	Nun's Courtyard Section	Bickerton Masters Architecture	Nov 2014
966 P051 (revision P2, 09/03/2015)	Planter Box/Balustrade Detail	Bickerton Masters Architecture	Nov 2014
966 P052 (revision P1, 09/03/2015)	Sections Indicating Sight Lines	Bickerton Masters Architecture	Nov 2014
966 P053 (revision P1, 09/03/2015)	Sections Indicating Sight Lines	Bickerton Masters Architecture	Nov 2014
966 P054 (revision P1, 09/03/2015)	Sections Indicating Sight Lines	Bickerton Masters Architecture	Nov 2014
966 P055 (revision P1, 09/03/2015)	Sections Indicating Sight Lines	Bickerton Masters Architecture	Nov 2014
966 P056 (revision P1, 09/03/2015)	Sections Indicating Sight Lines	Bickerton Masters Architecture	Nov 2014
966 P057 (revision P1, 09/03/2015)	Sections Indicating Sight Lines	Bickerton Masters Architecture	Nov 2014
966 P004 (revision P1, 30/01/2015)	Building Outline Sections	Bickerton Masters Architecture	Nov 2014
966 P005 (revision P3, 09/03/2015)	Balcony Screening to 36 Janet Street	Bickerton Masters Architecture	Nov 2014
No ref.	ESD Report	Bickerton Masters Architecture	12/11/2014
457EQ1A, revised 05/03/2015	Main Kitchen Basement Level – Equipment Layout	The Mack Group	02/03/2015
457EQ2A, revised 05/03/2015	Pastry Kitchen/Café/Pizzeria Ground Floor Level – Equipment Layout	The Mack Group	02/03/2015

- Survey Plan prepared by ATS Land & Engineering Surveyors Pty Ltd:

<i>Drawing Ref. No.</i>	<i>Name of Plan</i>	<i>Prepared by</i>	<i>Date</i>
8964-00 (revision 02, revised 11/11/2014) Sheet 1 of 2	Topographical Survey Plan	ATS Land & Engineering Surveyors Pty Ltd	24/05/2013
8964-00 (revision 02, revised 11/11/2014) Sheet 2 of 2	Topographical Survey Plan	ATS Land & Engineering Surveyors Pty Ltd	24/05/2013

- Stormwater Plans prepared by Northrop Sydney:

<i>Drawing Ref. No.</i>	<i>Name of Plan</i>	<i>Prepared by</i>	<i>Date</i>
Job No. 130376 DA1.01 (revision 3)	Cover Sheet, Drawing Schedule and Site Location	Northrop Sydney	23/01/2015
Job No. 130376 DA1.02 (revision 3)	Specification Notes	Northrop Sydney	23/01/2015
Job No. 130376 DA2.01 (revision 3)	Concept Sediment and Erosion Control Design	Northrop Sydney	23/01/2015
Job No. 130376 DA2.02 (revision 3)	Concept Sediment and Erosion Control Details	Northrop Sydney	23/01/2015
Job No. 130376 DA3.01 (revision 3)	Concept Stormwater Catchment Plan – Post Development	Northrop Sydney	23/01/2015
Job No. 130376 DA4.01 (revision 4)	Concept Stormwater Management Plan – Ground Floor	Northrop Sydney	23/01/2015
Job No. 130376 DA4.02 (revision 1)	Concept Stormwater Management Plan –	Northrop Sydney	23/01/2015

		Basement Level		
	Job No. 130376 DA4.03 (revision 1)	Existing Stormwater Plan	Northrop Sydney	23/01/2015
	Job No. 130376 DA4.11 (revision 1)	Existing Stormwater Pipe Longitudinal Section	Northrop Sydney	23/01/2015
	Job No. 130376 DA5.01 (revision 3)	Detail Sheet 1	Northrop Sydney	23/01/2015
	Job No. 130376 DA5.02 (revision 4)	Detail Sheet 1	Northrop Sydney	23/01/2015
	Job No. 130376 DA5.03 (revision 3)	Detail Sheet 3	Northrop Sydney	23/01/2015
	Job No. 130376 (sheet 1 of 1)	ACO Channel Sketch Section	Northrop Sydney	No date
	8964-00 (revision 01, revised 11/11/2014) Sheet 1 of 2	Legal Right of Drainage – Marked up Drawing No. 8964-00 (revision 01, revised 11/11/2014) Sheet 1 of 2	Northrop Sydney	21/01/2014

- Additional Documents Submitted by the Applicant on 28 October 2015
 - Additional response to Waste Management information prepared by JBA Urban Planning Consultants, ref. MO/YC 13268, dated 27 October 2015
 - Response to submissions (tabled in planning report below)

Doc. Ref. No.	Name of Doc.	Prepared by	Date
MO/YC 13268	Response to Submissions – Waste Management	JBA Urban Planning Consultants Pty Ltd	27/10/2015
13268	Response to Submissions	Scalabrini Villages and JBA	4/02/2015

- Additional Documents Submitted by the Applicant on 29 October 2015
 - Letter from Thomson Geer Lawyers re Scalabrini status as a Social Housing Provider
 - Clause 4.6 Variation to development standard as it relates to clause 4.3 Height of buildings (CBLEP)
 - Clause 4.6 Variation to development standard as it relates to clause 4.4 Floor space ratio (CBLEP)
 - Clause 4.6 Variation to development standard as it relates to clause 40(4) Building height (Seniors Housing SEPP)

Doc. Ref. No.	Name of Doc.	Prepared by	Date
CJT:3773490	Advice on whether Scalabrini Villages Limited is a Social Housing Provider under the State <i>Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i>	Thomson Geer Lawyers	27/10/2015
JBA 13268 (report reviewed and sign off 28/10/2015)	Clause 4.6 Variation to development standard as it relates to Clause 4.3 Height of buildings (CBLEP)	JBA Urban Planning Consultants Pty Ltd	Oct 2015
JBA 13268 (report reviewed and sign off 28/10/2015)	Clause 4.6 Variation to development standard as it relates to clause 4.4 Floor space ratio (CBLEP)	JBA Urban Planning Consultants Pty Ltd	Oct 2015
JBA 13268 (report reviewed and sign off 28/10/2015)	Clause 4.6 Variation to development standard as it relates to clause 40(4) Building height (Seniors Housing	JBA Urban Planning Consultants Pty Ltd	Oct 2015

	SEPP)										
	<ul style="list-style-type: none"> Additional Architectural Drawings Submitted by the Applicant Following Initial DA Lodgement: 										
	<table border="1"> <tr> <th><i>Drawing Ref. No.</i></th> <th><i>Name of Plan</i></th> <th><i>Prepared by</i></th> <th><i>Date</i></th> </tr> <tr> <td>966 DA601 (revision 1, 25/09/2015)</td> <td>Bin Plan</td> <td>Bickerton Masters Architecture</td> <td>Nov 2014</td> </tr> </table>	<i>Drawing Ref. No.</i>	<i>Name of Plan</i>	<i>Prepared by</i>	<i>Date</i>	966 DA601 (revision 1, 25/09/2015)	Bin Plan	Bickerton Masters Architecture	Nov 2014		
<i>Drawing Ref. No.</i>	<i>Name of Plan</i>	<i>Prepared by</i>	<i>Date</i>								
966 DA601 (revision 1, 25/09/2015)	Bin Plan	Bickerton Masters Architecture	Nov 2014								
Recommendation	Approval subject to conditions										
Report by	Mr Peter Giaprakas – Senior Statutory Planner Canada Bay Council										

1. BACKGROUND

The applicant seeks development consent for use of the site as a residential aged care facility providing care for 161 persons with basement parking for 75 vehicles. This includes partial demolition of existing structures and construction of new buildings to a maximum of four storeys above the natural ground level plus a below ground basement car parking and utilities level.

4 September 2013 – Pre-DA advice issued. Issues identified in the Pre-DA design have been addressed in the current submission. The Pre-DA submission included in the overall facility a child care centre component which does not form part of the current development application being considered.

The Statement of Environmental Effects states that preliminary community consultation was carried out by the applicant including a letterbox drop to approximately 160 neighbours within the immediate vicinity of the site, and that lines of communication with the neighbouring residents have been maintained since Scalabrini's purchase of the site.

26 March 2015 – Consent granted to DA459/2014 by the Joint Regional Planning Panel for *Substantial demolition of existing structures, retention of part of the existing hall and front entry elements of the main Mary Street building, and construction of a new 4 storey aged care facility accommodating 161 persons including 4 resident staff, basement parking for 75 vehicles, 2 mini buses and an ambulance.*

31 August 2015 – The current Development Application was lodged by the applicant with Council.

7 September 2015 – The application notified from 7 September 2015 to 21 September 2015. Sixteen (16) submissions were received including (13) objections and (3) in support.

The proposal included the following description with the notification to surrounding residents.

- *Partial demolition and construction of a new building for use as a residential aged care facility with accommodation for 161 persons, basement carparking, alterations and additions to existing hall building, tree removal and landscaping, waste facilities, new fencing, signage and associated site infrastructure*

Internal Referrals

- Engineering – Stormwater Management
- Engineering – Traffic & Parking
- Environmental Health
- Environmental - Waste
- Landscape Architect

Development schedule

Site Area	8,989m ² (Including area of foot path along Millar Street that will possibly be dedicated to Council with a boundary adjustment)
Maximum Allowable Floor Space (CBLEP)	0.5:1 or 4,494.5m ²
Maximum Allowable Floor Space (Seniors SEPP)	N/A
Gross Floor Area Proposed	11,999m ² (7505m ² or 0.83:1 above the LEP maximum and 3,010m ² or 0.33:1 above the Seniors SEPP)
Floor Space Ratio Proposed	1.33:1
Maximum Allowable Building Height (CBLEP)	8.5m
Maximum Allowable Building Height (Seniors Housing SEPP)	8m
Maximum height Proposed	13.93m under LEP definition (measured from natural ground level to highest point) 13.25m under Seniors Housing SEPP definition (measured from any point of the top most ceiling of the topmost floor) (4 storeys above ground level plus basement

	parking and utility level)
Single occupancy rooms	123 (Internal layouts not provided)
Couples Care rooms	17 (Internal layouts not provided)
Resident staff accommodation	4
Total accommodation	161 persons including single and couples aged care accommodation and resident nuns (Total of 140 aged care rooms including four resident staff accommodation)
Car Parking Spaces	75 plus 2 mini bus spaces
Bicycle Parking Spaces	Area indicated
Site Coverage	5,018m ² (55.8%)
Landscape Area	3,971m ² (In accordance with Seniors SEPP definition)
Hours of Operation	24 hours a day, 7 days a week
Staff Numbers	56 staff on site at any one time

Non-compliance with building height and floor space ratio controls

The applicant has included with this development application the following documents that address the proposed variation to the applicable building height controls:

- Clause 4.6 Variation Request to clause 40(4) of State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004
- SEPP 1 Variation for clause 40(4) of State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004
- Clause 4.6 Variation Request to vary clause 4.3 of the Canada Bay Local Environmental Plan 2013

The applicant states that only the Clause 4.6 Variation Request to clause 40(4) of State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 is required under the relevant environmental planning instruments and that the maximum building height development standard under clause 40(4) of the Seniors Housing SEPP is inconsistent with the maximum building height development standard under clause 4.3 of the Canada Bay LEP, and as such the development standard under the SEPP prevails.

The applicant also states that Clause 1.9(2) of the Canada Bay LEP (CBLEP) states that State Environmental Planning Policy No 1 Development Standards (SEPP 1) does not apply to land to which the LEP applies. As such, the appropriate mechanism to vary the development standard under clause 40(4) of the Seniors Housing SEPP is clause 4.6 of the LEP.

The applicant advises that should their view in this regard be incorrect, a SEPP 1 Objection to clause 40(4) of State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 and a Clause 4.6 Variation Request to clause 4.3 of the Canada Bay Local Environmental Plan 2013, are also included. The applicant also states that it does not however consider that these latter two variations are required.

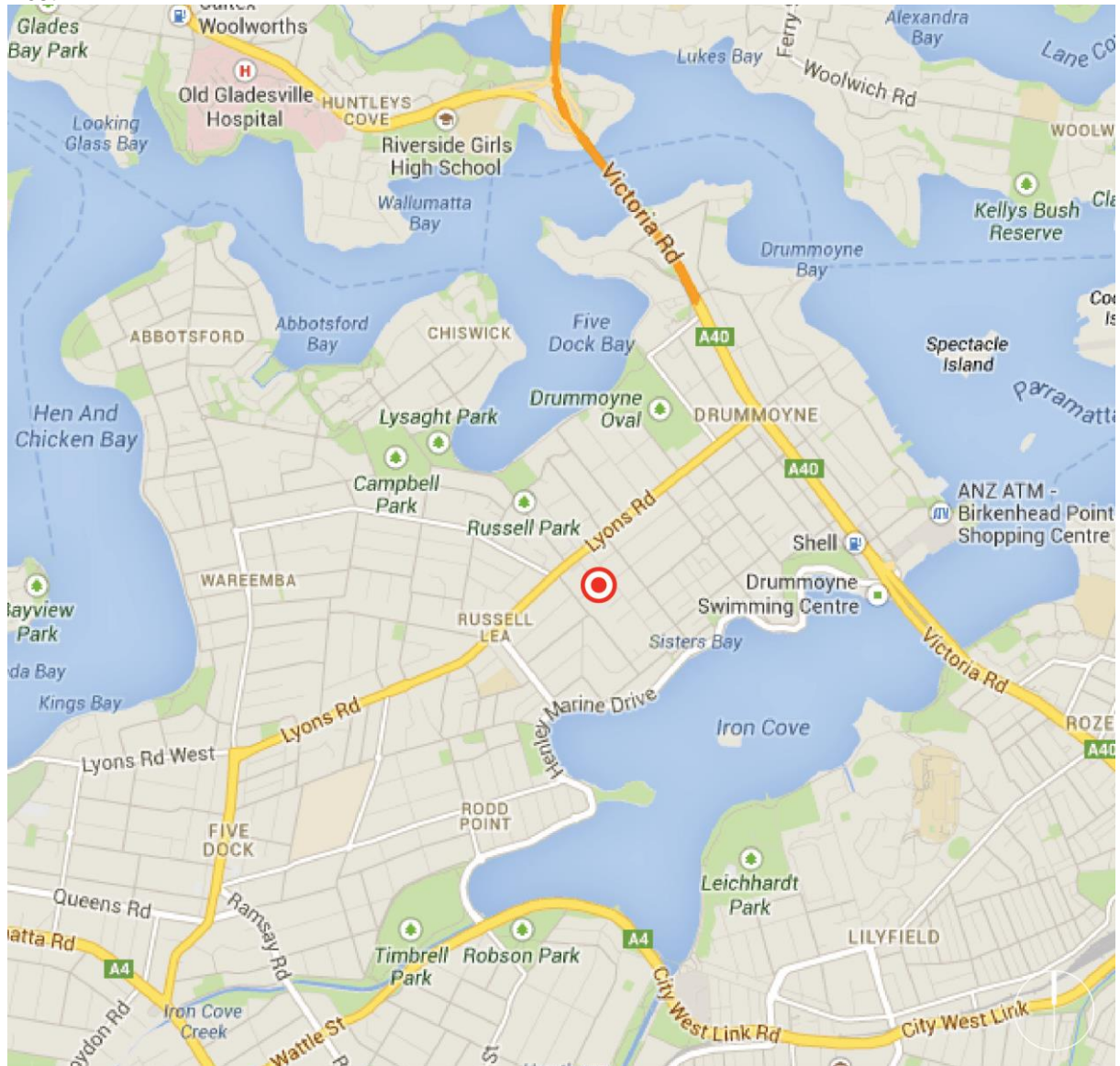
The applicant also seeks approval, in accordance with clause 4.6 of LEP 2009, for departure from the maximum allowable floor space ratio, as prescribed under clause 4.3 of the CBLEP. The variation to the development standard is set out at Section 5.0 of the applicant's Statement of Environmental Effects.

The applicant's submitted requests for variations to statutory controls with regard to height and floor space ratio have been considered in the body of this report. Considering the applicant's justification for departure in this regard, the proposal is recommended for approval subject to conditions of consent.

2. SITE AND CONTEXT

The site comprises two lots legally described as Lot 1 in DP795487 and Lot 6 in DP9735. The total site is 8,989m² in area and is generally rectangular in shape.

The site is located on the south-western corner of Millar Street and Mary Street, Drummoyne. The topography of the site is relatively level with a minor change in level of 1.0-1.2m from north-east to south-west.



① The Site

Source: GoogleMaps

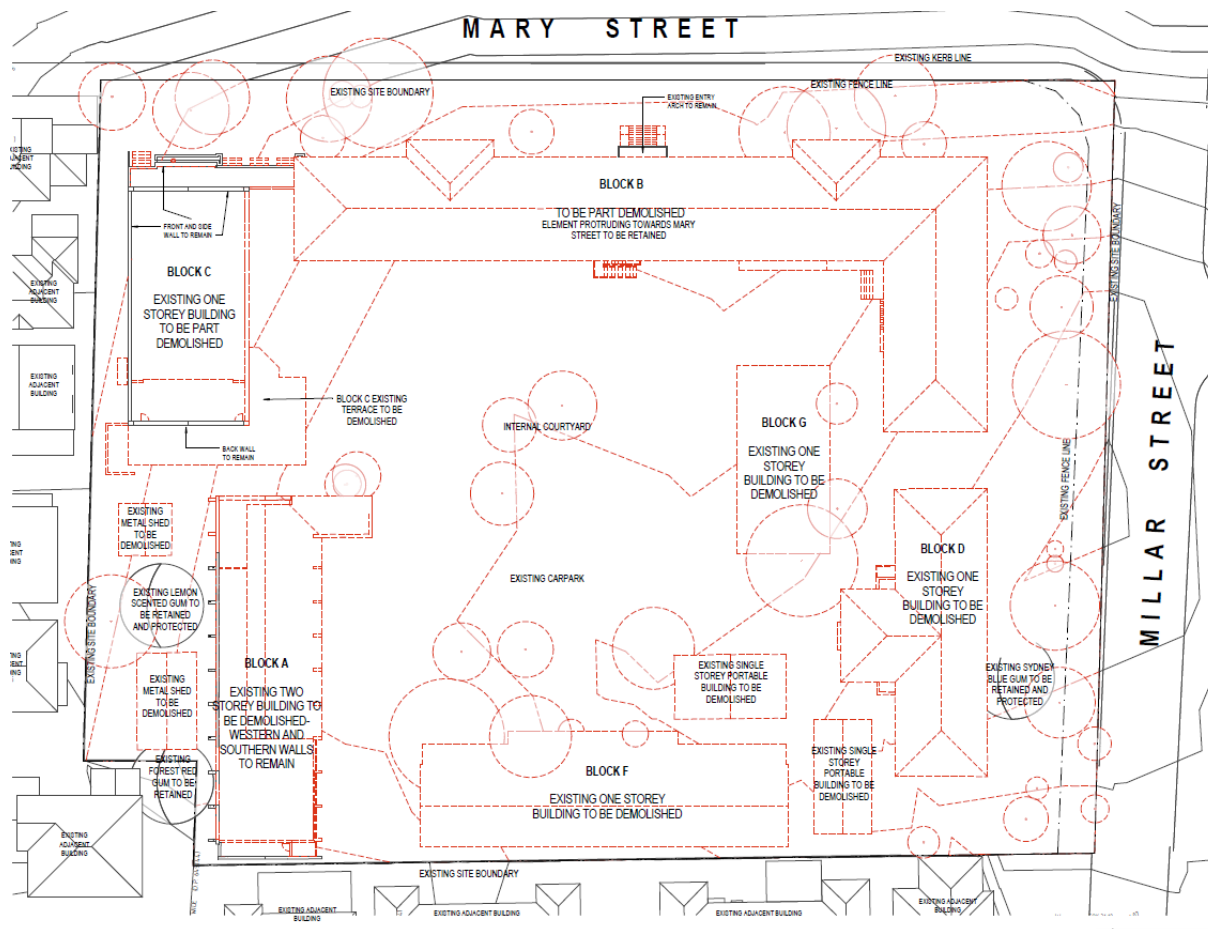
Location Plan

The site was originally constructed and used as the Drummoyne Boys High School and also originally included the sites now known as No.'s 1 – 3 Mary Street and 40 – 46 (A and B) Janet Street, Drummoyne to the south-western side of the site which was originally used as the school's football field. The public school was closed in 1990.

Existing development on the site includes six buildings addressing the street edges and property boundaries. Buildings along Mary and Millar Street boundaries include the original two-storey school buildings constructed of red brick and tile roofs with a steep pitch.

Other buildings adjoining common property boundaries are typically one-two storeys in height and of later construction. The buildings form a perimeter to an internal at-grade parking area (formerly the original school's quadrangle area) including 54 car parking spaces. A low red-brick and metal fence

bounds the site to the Mary Street frontage and a portion of the Millar Street frontage. Existing buildings on the site are estimated to have a total Gross Floor Area (GFA) of approximately 4,191m².



Plan of existing Development on the Site (Source: Bickerton Masters Architects)

The site is bounded by Millar Street to the east with semi-detached and detached dwelling houses situated opposite the site. A single storey villa development is located immediately to the south of the site at No.'s 13 – 15 Millar Street and is known as Aranda Gardens. Council records indicate that these villas were approved on 13 September 1994 under Development Application No. 81/1994.

A row of attached one and two storey dual occupancies are located to the west of the site at 1 – 3 Mary Street and 40 – 46 (A and B) Janet Street. Council records indicate that these dual occupancies were approved on 15 December 1994 under Development Application No. 124/1994. This site was formerly known as 17 Millar Street, Drummoyne.

The area to the north of the site on the opposite side of Mary Street comprises a mix of semi-detached and detached one and two storey dwelling houses.



The Site

Source: Nearmap

Image Date: Nov 2013

Aerial Site Plan



Aerial view from the east showing the existing building massing (Source: Colliers International)

3. PROPOSED DEVELOPMENT

3.1 Project Description in Detail

The proposal seeks consent for the *Partial demolition and construction of a new building for use as a residential aged care facility with accommodation for 161 persons, basement carparking, alterations and additions to existing hall building, tree removal and landscaping, waste facilities, new fencing, signage and associated site infrastructure.*

The applicant describes the proposal as a U-shaped form generally orientated along the north-western and south-eastern boundaries of the site. An existing one storey hall/multipurpose space will be retained in the north-western portion of the site fronting Mary Street and adjoining residential dwelling development to the south.

Limited portions of the existing building façade will be retained as documented on the submitted plans. The new buildings seek to continue the presentation and alignment of the existing buildings along Millar and Mary Streets.

The siting of the buildings seeks to maintain a central open space area (formally the original school's quadrangle) as a pedestrian communal space, referred to as "the piazza" and will include non-residential ancillary uses.

The new buildings are separated into four individual wings, each including a communal living, dining and lounge. The applicant states that the design intent of these wings are intended to function as would a family dwelling, fostering a sense of community and family, and regular interaction and engagement between residents.

The buildings are serviced by four (4) separate lift cores spread through the development linking the upper levels to the piazza and basement car park. Components of each level are listed in the table below.

Please note: Any drawing/diagram inserted into this report is for illustration purposes and may include revised versions. For final revisions refer to approved drawing/document list in condition **DAGCA01**.

Level	Components
Basement	<ul style="list-style-type: none">• Car parking• Loading bay• Mini bus parking• Kitchen• Laundry• Storage area, maintenance storage• Waste rooms and rainwater storage• Plant and utilities
Ground	<ul style="list-style-type: none">• 16 residential aged care beds (within South Wing)• Resident dining and lounge area• Chapel• Therapy space• Residents shop/gelato• Residents café/ pastry bakery• Residents salon/barber• Companions respite area, including shared cinema, lounge, bar, dining and shared cinema• Staff facilities and lockers• General site administration office• Nuns accommodation including 4 x beds• Residents multi-purpose therapy space• TV/Lounge/Living/Dining areas for each

	<ul style="list-style-type: none"> house • Outdoor piazza • Entrances and Mary Street vehicular set-down area • Waste bins storage rooms
Level 1	<ul style="list-style-type: none"> • 59 x residential aged care beds • Balconies • TV, lounge, living, dining and balcony areas for South Wing
Level 2	<ul style="list-style-type: none"> • 48 x residential aged care beds • 3 x couples care accommodation • Lounge, dining and balcony areas for each wing • Staff administrative and utility areas
Level 3	<ul style="list-style-type: none"> • 14 x couples care accommodation • Balconies • Staff administrative and utility areas • Rooftop plant equipment • Common area for social gatherings

The Residential Care Facility

In accordance with clause 11 of the State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP), Scalabrini Village Drummoyne is defined as a *residential care facility*. The facility will provide accommodation for seniors including meals provisions and cleaning services, personal care, and nursing care and required staffing, furniture, furnishings and equipment. The facility will provide services to meet a range of care needs, and particularly for frail or physically dependent residents requiring a higher level of nursing care and will include both single and couples Care.

The facility is proposed to operate 24 hours a day, 7 days a week, with staff on-site at all hours to provide care as required. The applicant states that the majority of the site's operations will occur during normal daytime hours, including deliveries and waste collection.

Access to Site and Security

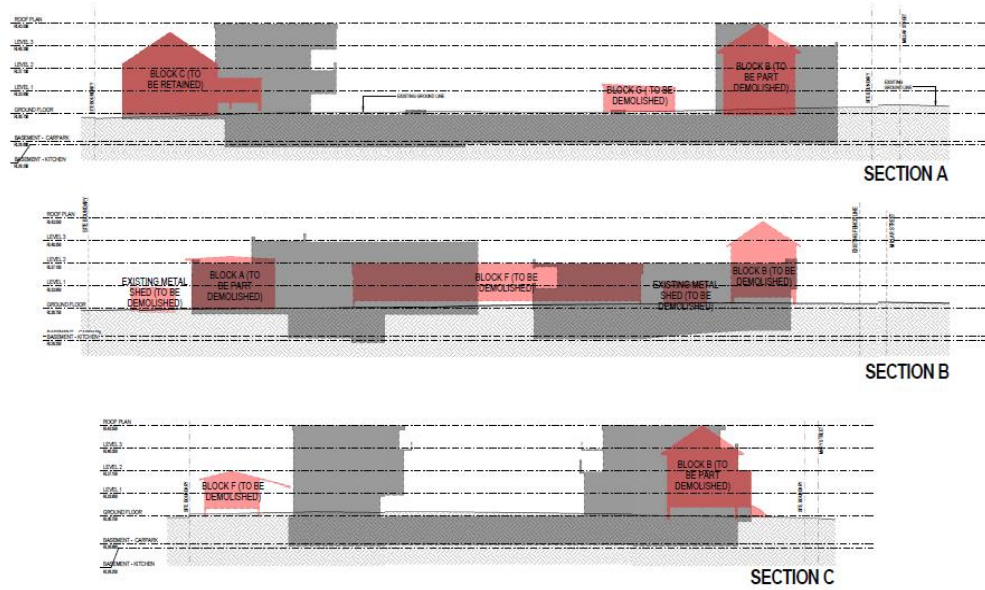
The applicant states that access to the facility and internal areas of the site will be restricted to staff, residents and pre-authorised visitors only and during business hours. The reception to the Mary Street entrance will be the primary point of access and egress to the street. Outside of this time an intercom provided at the front door will allow visitors to contact on-site nursing staff, who will be present on site 24 hours, 7 days per week. Electronic access cards will be issued to all staff and regular visitors (i.e. family) to allow access via other entrances and outside of business hours.

Lifts from the basement will be controlled by swipe card and only the lift to reception is accessible by visitors without a swipe card during business hours. Out of hours access is controlled by swipe and intercom to nursing staff. The door to the garbage dock will have swipe access and intercom to the dock and reception during business hours (and nursing staff out of hours).

There is a single two-way vehicle access point to the basement level via Millar Street. Access here will require authorisation via either a swipe card or the intercom (to reception and dock during business hours, and to nursing staff out of hours) to activate the roller shutter. The roller shutter will auto open to allow exit.

Garbage collection is also via a Millar Street driveway crossing located further east to the basement entrance, at the south-east corner of the site. Garbage vehicles can enter and exit the site in a forward direction with the aid of an at-grade vehicular turning bay that will be integrated into the landscaping. The collection bay area is setback further into the site past this turning bay where waste bins will be moved to from within their internal waste bin storage area. From the waste collection point, the waste bins will be emptied into waste trucks whilst screened from public view by a large sliding door unit.

The main entrance to the site at Mary Street is provided with a vehicular drop-off drive in/drive out driveway with two driveway crossings.



NO.	DATE	REVISION	BY
1	10/10/2018	1	SV



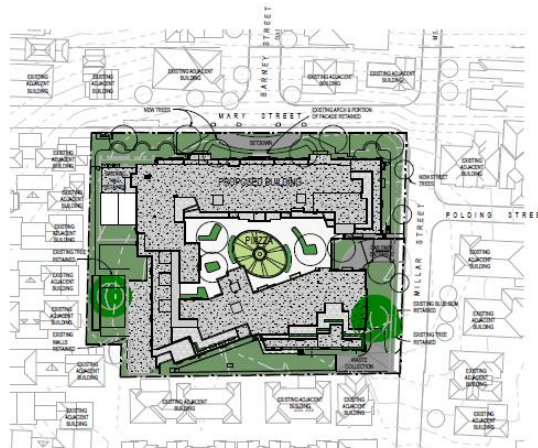
SV Scalabrini Village Drummoyne
5 Mary Street (also known as 17 Millar Street)
Drummoyne

BICKERTON MASTERS
ARCHITECTS
10/10/2018
DA103

PRELIMINARY			
BUILDING OUTLINE SECTION			
NO.	DATE	REVISION	BY
1	10/10/2018	1	SV

Building Outline Sections

The plans below form part of the full set of architectural plans and illustrations. For the complete list of plans and final revisions refer to Condition **DAGCA01** at Appendix A.



NO.	DATE	REVISION	BY
1	10/10/2018	1	SV



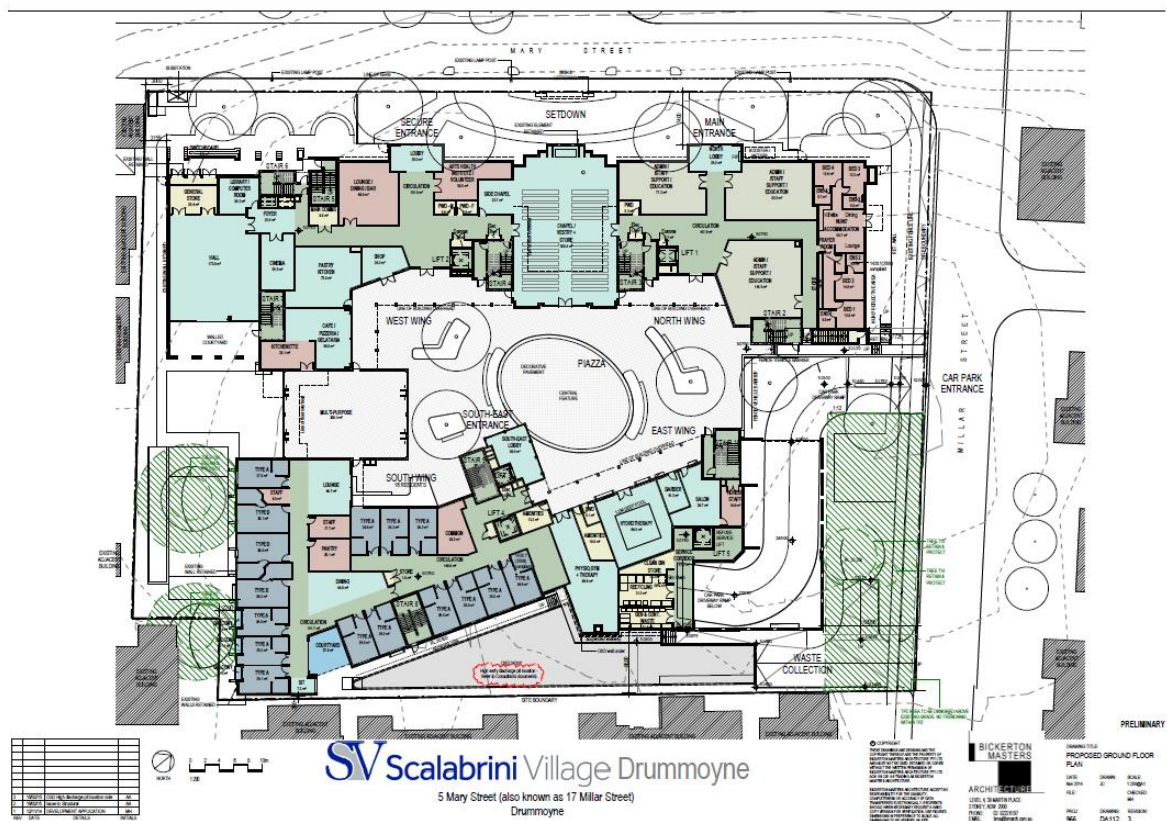
SV Scalabrini Village Drummoyne
5 Mary Street (also known as 17 Millar Street)
Drummoyne

BICKERTON MASTERS
ARCHITECTS
10/10/2018
DA103

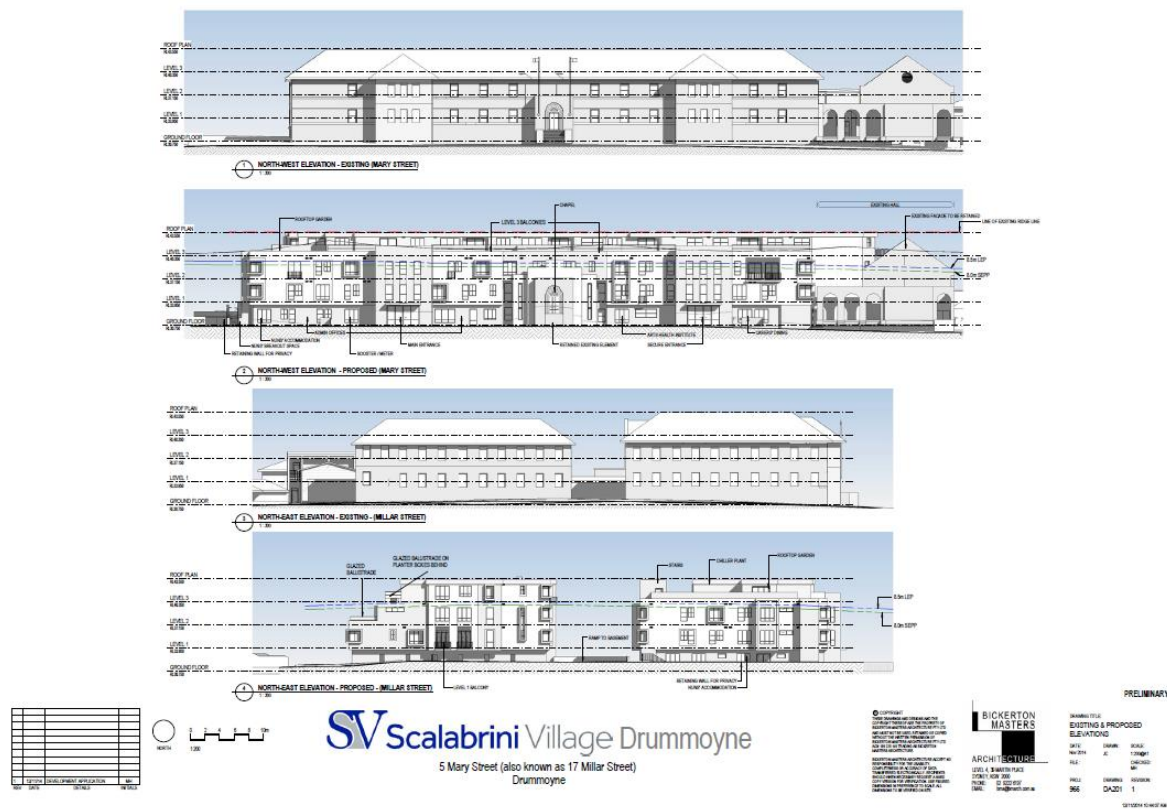
PRELIMINARY			
PROPOSED SITE PLAN - LOCATION			
NO.	DATE	REVISION	BY
1	10/10/2018	1	SV

Proposed Site Plan – Location Plan

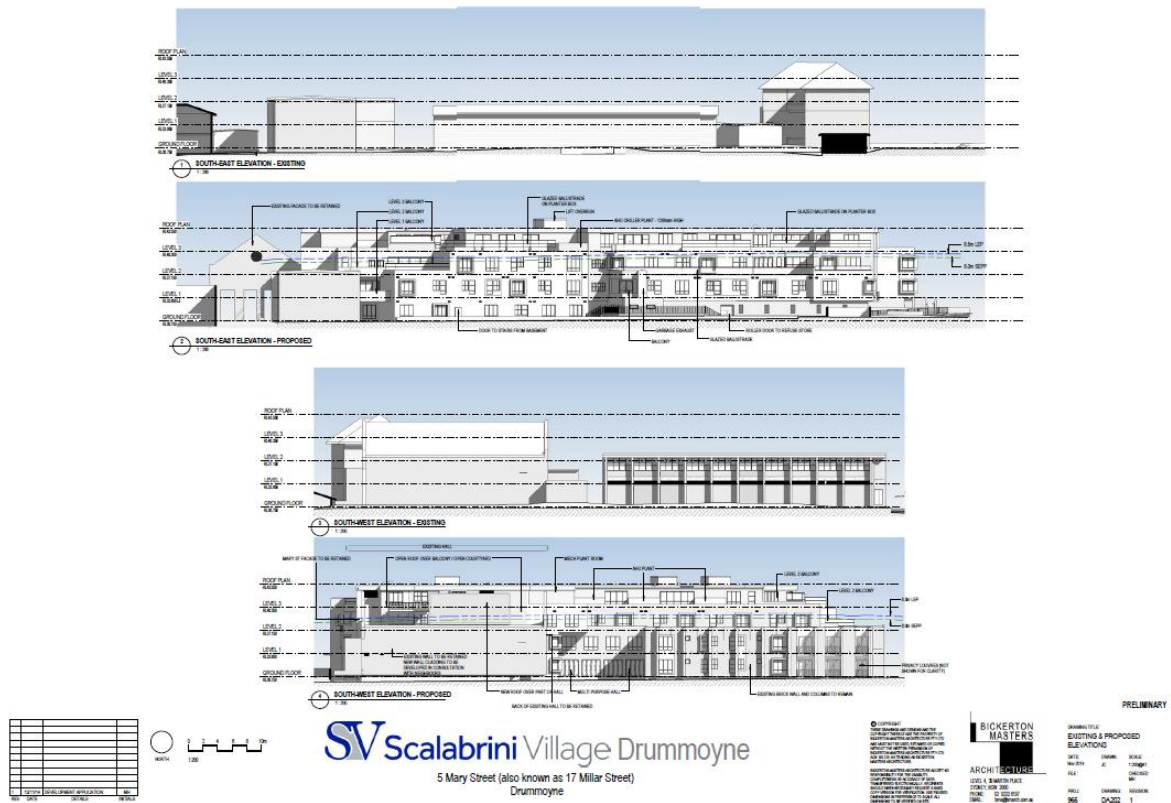
Proposed Site Plan



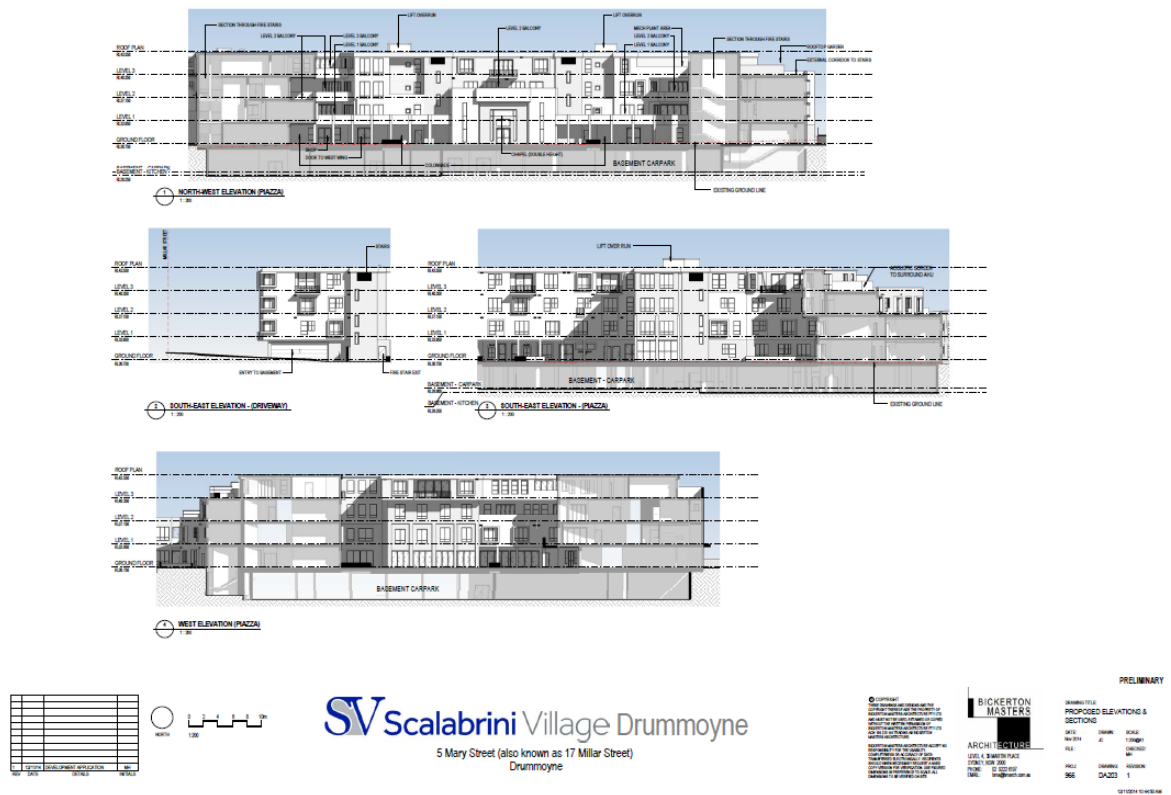
Proposed Ground Floor Plan



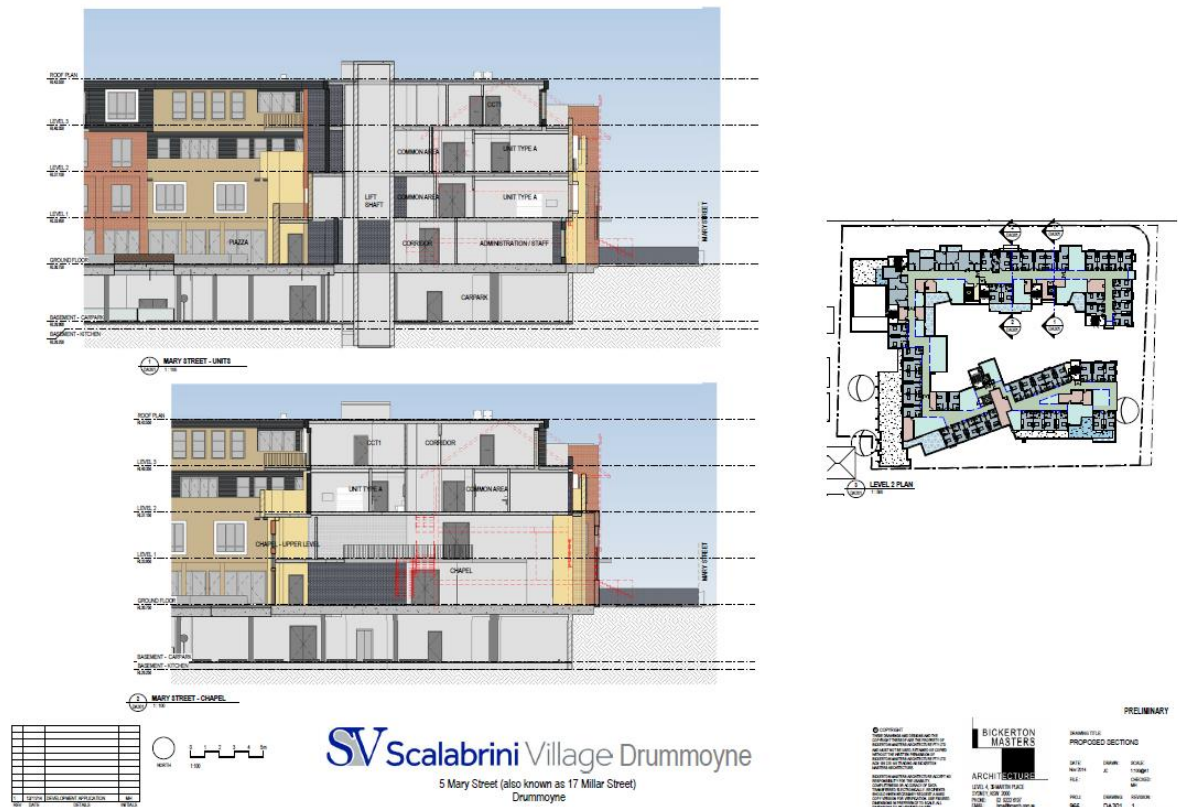
Existing & Proposed Elevations (North-West & North-East)



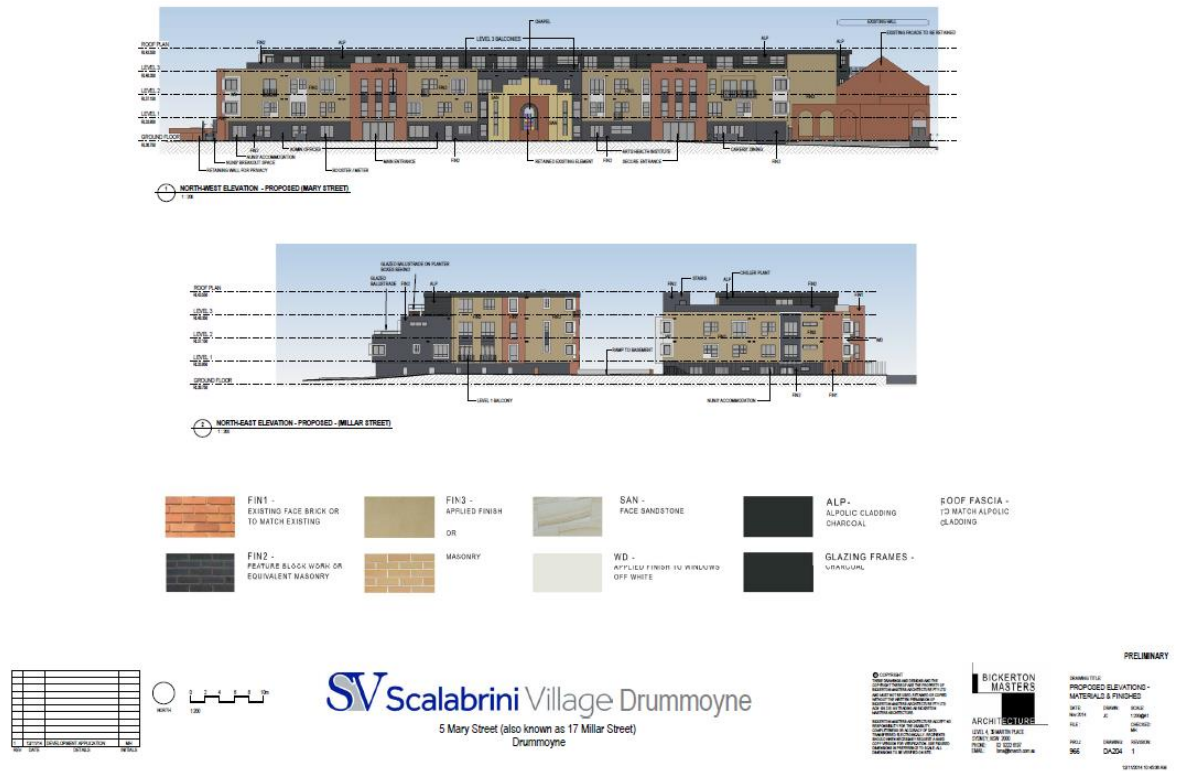
Existing & Proposed Elevations (South-East & South-West)



Proposed Elevations & Sections (North-West Piazza, South-East Driveway & West Piazza)



Proposed Sections



Proposed Elevations (North-West, Mary St & North-East, Millar St) – Materials & Finishes



Photomontage depicting the aged care facility along Millar Street at the driveway crossing location (Source: Bickerton Masters Architects)



Photomontage depicting the aged care facility at the corner of Mary and Millar Street at the driveway crossing location (Source: Bickerton Masters Architects)

4. STATUTORY CONTEXT

4.1 Delegation

Under Section 23G of the *Environmental Planning and Assessment Act 1979 (the Act)*, a regional panel is taken to be the Council whose functions are conferred on a regional panel.

Pursuant to Schedule 4A of the Act as the development has a Capital Investment Value (CIV) greater than \$20 million (\$56,018,160 declared) the consent authority is the Sydney East Joint Regional Planning Panel (JRPP).

4.2 Permissibility

The site is zoned *R2 Low Density Residential* under the *Canada Bay Local Environmental Plan 2013* (CBLEP) with the proposed development defined as a 'aged care facility'. Aged care facility is not a permissible use under the CBLEP however by virtue of the State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP), aged care facility is a permitted use within the designated land use zone.

4.3 Environmental Planning Instruments

To satisfy the requirements of Section 79C(1)(a) of the Act, this report includes references to provisions of the Environmental Planning Instruments that substantially govern the carrying out of the project and have been taken into consideration in the assessment of the Development Application.

Environmental Planning Instruments

- State Environmental Planning Policy No. 55 - Remediation of Land
- Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005
- State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP)
- Canada Bay Local Environmental Plan 2013

Non Statutory Planning Policies

- City of Canada Bay Development Control Plan 2013

4.3.1 State Environmental Planning Policy No. 55 – Remediation of Land;

Clause 7 of State Environmental Planning Policy No 55 (Remediation of Land) requires the consent authority to consider whether land is contaminated, prior to granting of consent to the carrying out of any development on that land.

The land has been used for educational purposes since the original Drummoyne Boys High School was established on the site in 1940. There is no known prior use of the site that would suggest any significant contamination. Contamination levels identified in the applicant's preliminary contamination assessment prepared by Douglas Partners are within required limits as advised by Council's Environmental Officer.

A review of the Preliminary Contamination Assessment prepared by Douglas Partners, Project 73642.01 Rev 1 Dated July 2014 confirmed the following:

- Known prior use of the site has been limited to residential and educational.
- No known prior use of the site for activities as listed in Appendix 1 of Council's Contaminated Land Policy – Schedule of Potentially Contaminating Activities
- The results of soil samples collected as highlighted in Appendix A of the Preliminary Contamination Assessment confirm that whilst one sample is at the maximum acceptable level of Schedule B1 of NEPC 2013 it does not exceed the acceptable criteria.

Council's Contaminated Land Policy Council requires a detailed site contamination investigation to be undertaken when the results of the preliminary investigation demonstrate the potential for, or existence of contamination which may not be suitable for the proposed use of the land.

As the preliminary assessment does not demonstrate the potential for or existence of contamination which may not be suitable for the proposed use, Council has no grounds in which to enforce the requirement to undertake further assessment of contaminants onsite.

Council's Environmental Officer has recommended however that excavation works carried out onsite should be closely monitored to ensure no signs or evidence of contamination. Where evidence of contamination is identified:

- Excavation of the site is to be stopped immediately;
- A suitably qualified environmental consultant is to be contracted to further assess the site; and
- Council is to be notified of the proposed remedial action plan.

The above recommendations are included within the recommend conditions of consent at Appendix A of this report.

4.3.2 Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005; deemed SEPP

The site falls within the map area shown edged heavy black on the Sydney Harbour Catchment Map and hence is affected by the provisions of SREP (Sydney Harbour Catchment) 2005. The SREP aims to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained. The SREP also provides a set of guiding principles to be taken into consideration in the preparation of environmental planning instruments and / or master plans.

Clause 20(a) states that consent authorities must take into consideration the matters in Division 2 prior to the granting of consent. Matters of considerations include:

- *Clause 21 Biodiversity, ecology and environment protection*

Comment: The site is separated from the foreshore by some kilometres and is not likely to have any impact on the quality of water entering the waterway or upon terrestrial and aquatic species, populations and ecological communities.

- *Clause 22 Public access to, and use of, foreshores and waterways*

Comment: The proposed development does not affect public access to and along the foreshore given its physical separation and is not likely to have any adverse impact on watercourses, wetlands, riparian lands or remnant vegetation.

- *Clause 23 Maintenance of a working harbour*

Comment: The proposed development will not impact upon the character and functions of a working harbour.

- *Clause 24 Interrelationship of waterway and foreshore uses*

Comment: The site does not have an interrelationship with the waterway or foreshore use.

- *Clause 25 Foreshore and waterways scenic quality*

Comment: Elements of the development may be visible from the waterway however only distant. The scale, form, design and siting of the building as viewed from the waterway is not likely to compromise its scenic quality.

- *Clause 26 Maintenance, protection and enhancement of views*

Comment: There are no apparent views or view corridors to be affected as a result of the development. The development will capitalise from upper level views to the waterway and city skyline.

- *Clause 27 Boat storage facilities*

Comment: Not applicable.

4.3.4 State Environmental Planning Policy No 1—Development Standards

As discussed in section 1 above, the applicant is of the opinion that this instrument does not apply given that Clause 1.9(2) of the Canada Bay LEP (CBLEP) states that State Environmental Planning Policy No 1 Development Standards (SEPP 1) does not apply to land to which the LEP applies.

Nevertheless, the applicant has also included a SEPP 1 Objection to clause 40(4) of State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Refer to Appendix Q of the applicant's SEE for full Objection) along with a Clause 4.6 Variation Request to clause 4.3 of the Canada Bay Local Environmental Plan 2013.

Clause 3 Aims of Policy

This Policy provides flexibility in the application of planning controls operating by virtue of Development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the Act.

Clause 8 Concurrence

The matters which shall be taken into consideration in deciding whether concurrence should be granted are:

- (a) whether non-compliance with the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the planning controls adopted by the environmental planning instrument.*

The standard to which this objection relates is the **State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004** as it applies to building height.

Clause 2 Aims of Policy

(1) This Policy aims to encourage the provision of housing (including residential care facilities) that will:

- (a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
- (b) make efficient use of existing infrastructure and services, and*
- (c) be of good design.*

(2) These aims will be achieved by:

- (a) setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy, and*
- (b) setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form, and*
- (c) ensuring that applicants provide support services for seniors or people with a disability for developments on land adjoining land zoned primarily for urban purposes.*

Clause 40(4) (Building height) states:

(4) Height in zones where residential flat buildings are not permitted

If the development is proposed in a residential zone where residential flat buildings are not permitted:

- (a) the height of all buildings in the proposed development must be 8 metres or less, and*

Note. Development consent for development for the purposes of seniors housing cannot be refused on the ground of the height of the housing if all of the proposed buildings are 8 metres or less in height. See clauses 48 (a), 49 (a) and 50 (a).

- (b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and*

Note. The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.

(c) a building located in the rear 25% area of the site must not exceed 1 storey in height.

The applicant's arguments to support the objection to the standard is summarised as follows (see applicant's submission for full document).

The objectives of the standard are achieved notwithstanding non-compliance with the standard.

There are no objectives specifically relating to the development standards listed at Clause 40 of the Seniors SEPP. Based on the inferred intent of these standards, which is to mitigate potential amenity impacts on existing localities and to control the scale of development on a site, the following matters have been considered.

Overshadowing

Overall, the proposed development will not adversely impact upon the existing level of solar access currently enjoyed by the surrounding residents and will not give rise to any unacceptable overshadowing impacts within the site either. Whilst it is noted that during the morning (on June 21) additional shadow is cast over a small number of adjoining properties, overall, the proposed development provides substantial improvements to the solar access of surrounding dwellings.

Visual Impact/Streetscape

The proposed design for the development has been carefully crafted to reflect the form and siting of the existing buildings and reinforce the existing streetscape. This has been achieved by maintaining the existing scale of development, the overall general built form and perimeter layout of buildings on the site.

*In addition to this, and with exception of where existing buildings are to be retained (being the existing hall and south western building), the development has for the most part has been well setback from adjoining sites, beyond that of most of the existing buildings on the site. This is clearly shown in the shadow diagrams (at **Appendix A** of the SEE).*

It is therefore considered that the proposed development will not cause adverse visual impacts on the basis that it will:

- be compatible in building height to the current two storey buildings on the Site;*
- be of similar apparent scale and bulk to the existing buildings when viewed from both Mary and Millar streets;*
- not generate additional overshadowing to existing adjoining residential premises; and*
- be generally setback from adjoining boundaries with existing residential development.*

Visual and Acoustic Privacy

In terms of visual privacy, the design of the proposal, including the location and orientation of windows and balconies, has been designed to ensure suitable levels of visual privacy are maintained to surrounding residential land uses and avoid direct overlooking (refer to privacy diagrams at Appendix C of the SEE).

The acoustic amenity of residents adjoining the site has been considered in the Acoustic Report prepared by Acoustic Logic which is appended to the SEE. The report identified that the operation of the aged care facility, including noise generated from plant and equipment, vehicle movements, and loading and servicing, will be within acceptable ranges of noise and will not adversely impact these residents.

Traffic and Parking

The traffic and parking report prepared by Arup that is appended to the SEE determines that the proposal will have a minimal impact on the operation of the local road network. Reasons for this include the following:

- Traffic movements at the key access points into the site currently operate efficiently with minimal vehicle delays
- The forecast increase in peak hour generation of 4-8 vehicles is a relatively modest increase when distributed over the key access roads into the residential precinct, and considered in the context of existing traffic volumes in the area.

The proposed parking provision is well in excess of the amount of parking required to be provided on the site.

Conclusion

The Department of Planning's 'Guidelines For the Use of State Environmental Planning Policy No. 1' (refer to Planning Circular No. B1) states that "if the development is not only consistent with the underlying purpose of the standard, but also with the broader planning objectives of the locality, strict compliance with the standard would be unnecessary and unreasonable". It is considered that this is the case with this proposed development.

There are no objectives for the maximum building height controls under clause 40 of the Seniors Housing SEPP, and the proposal is consistent with the overarching aims of the SEPP and with the objectives of the Environmental Planning and Assessment Act 1979 (Act).

The proposal provides a high quality aged care facility to meet a clearly identified demand, and is considered to represent a suitable planning outcome in terms of land use planning and the provision of community services in accordance with the Draft Metropolitan Strategy for Sydney, the NSW State Plan and the aims of the Seniors Housing SEPP. Furthermore, the Statement of Environmental Effects and the accompanying expert reports demonstrate that there are no significant impacts that are generated as a result of the variation from the maximum building height control.

For this reason, it is considered that strict compliance with the standard set out in clause 40 of the Seniors SEPP is unnecessary and unreasonable as the **underlying purpose** of the provisions of the SEPP and the Act (in the absence of a stated objective for maximum building height) is satisfied by the proposed development.

Comment: The SEPP 1 objection submitted with the application is considered to be well founded and adequately demonstrates that strict compliance with the maximum building height prescribed under the Seniors Housing SEPP is both unnecessary and unreasonable.

Further, the reasons given for departure from the standard adequately demonstrate to Council that the proposed development achieves the objectives or underlying purpose of the standard notwithstanding its non-compliance with the standard.

The SEPP 1 objection adequately demonstrates that:

- the strict application of the standard would hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the EP&A Act;
- strict application would hinder the attainment of the SEPP, being the provision of well-designed accommodation for seniors to cater to Sydney's ageing population;
- the non-compliance with the development standard does not raise any matters of State and regional planning significance and will assist with the attainment of policies; and
- in this instance there is no public benefit in maintaining numeric standard adopted by the environmental planning instrument for this site, and non-compliance with the development standard will facilitate a development that delivers greater public benefits.

The applicant has adequately demonstrated that the proposal is not inconsistent with the existing built forms and their configuration on the site. These buildings have been in place for some decades and utilised for institutional purposes. The proposal seeks to take advantage of this unique opportunity to development around the parameters of the existing built form and to provide the community at large with a quality aged care facility with minimal environmental impact to surrounding residents.

Council is therefore satisfied that the development standard is therefore unnecessary and unreasonable in the circumstances of the case, and refusal of the development application on these grounds is not warranted.

4.3.5 State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP)

Clause 2 – Aims of Policy

(1) This Policy aims to encourage the provision of housing (including residential care facilities) that will:

- (a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
- (b) make efficient use of existing infrastructure and services, and*
- (c) be of good design.*

(2) These aims will be achieved by:

- (a) setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy, and*
- (b) setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form, and*
- (c) ensuring that applicants provide support services for seniors or people with a disability for developments on land adjoining land zoned primarily for urban purposes.*

Clause 11 – Residential Care Facilities

The proposed development is consistent with the definition of a *residential care facility* within the meaning of clause 11, in that all residents receiving care will be provided with:

- *meals and cleaning services;*
- *personal and/or nursing care; and*
- *facilities for the provision of care are provided on site and the facility will be designed to the standard commensurate with the level of care provided.*

Clause 26 – Location and access to facilities

The location of the site meets the requirements of clause 26 of the SEPP with regard to the ability to access facilities and public transport via accessible paths of travel. The site is located within 400 metres to the nearest bus stop on Lyons Road.

Note: The table below includes in italics a summary of the applicant's response to relevant requirements of the Seniors SEPP followed by the assessing officer's comments.

Provision	Comments
Clause 33 – Neighbourhood Amenity and Streetscape	
(a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and	<p><i>Applicant's response: The design, character, facade treatment, landscaping, and materials selection have been carefully considered. The design of the proposal will provide an improvement from the existing institutional building presentation to the street. The design will retain some elements from the existing buildings but achieve a residential scale.</i></p> <p><i>The result is a building that is similar in scale to the existing development on-site and that will contribute to the quality and identity of this area of Drummoyne.</i></p> <p>Comment: Satisfactory</p>
(b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan,	<p><i>Applicant's response: The subject site is not located in a nominated heritage conservation area, or within the vicinity of any nominated heritage items.</i></p> <p>Comment: Not applicable however the proposal does seek to maintain references to the existing institutional building by retaining specific elements</p>
(c) maintain reasonable neighbourhood amenity and appropriate residential character by:	<p>Comment: The proposal has been appropriately designed to integrate well into the streetscape with regard to bulk and</p>

<ul style="list-style-type: none"> – (i) providing building setbacks to reduce bulk and overshadowing, and -- (ii) using building form and siting that relates to the site's land form, and – (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and – (iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and 	<p>scale, materials and colours and building articulation and siting which will maintain a reasonable level of neighbourhood amenity</p>
<p>(d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and</p>	<p>Applicant's response: <i>The siting of the buildings in excess of the minimum required setback from boundaries under the Seniors Housing SEPP is respectful of the existing built form existing on the site. The streetscape setbacks, particularly to Millar and Mary Streets adopt the existing building footprint and form. Importantly, the design of the proposed building envelopes and footprints, offers an improvement from the existing scenario, and contributes to improved levels of amenity (through separation, setbacks and maintaining or improving upon existing levels of solar access) to surrounding residents.</i></p> <p>Comment: Satisfactory</p>
<p>e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and</p>	<p>Applicant's response: <i>A comprehensive landscape and planting strategy have been proposed by Arterra Landscape Design. This scheme has sought to retain existing streetscape trees where possible. The design retains a number of significant trees, and provides comprehensive landscaping across the site (including WSUD).</i></p> <p>Comment: Satisfactory. Relevant conditions apply regarding provision, retention and protection of landscape features</p>
<p>(f) retain, wherever reasonable, major existing trees, and</p>	<p>Applicant's response: <i>Significant trees have been retained where possible.</i></p> <p>Comment: Satisfactory. Relevant conditions apply</p>
<p>(g) be designed so that no building is constructed in a riparian zone.</p>	<p>Applicant's response: <i>N/A</i></p> <p>Comment: N/A</p>
<p>Clause 34 – Visual and Acoustic Privacy</p>	
<p>The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:</p>	
<p>(a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping,</p>	<p>Applicant's response: <i>The design of the proposal, including the location of windows and balconies, has been designed to ensure suitable levels of visual privacy is maintained to surrounding residential land uses and avoid direct overlooking.</i></p> <p>Comment: Satisfactory. Relevant conditions apply</p>
<p>(b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</p>	<p>Applicant's response: <i>An Acoustic report has been prepared by Acoustic Logic which demonstrates that the operation of the proposed facility will not impact on the amenity of surrounding land uses and residential receivers.</i></p> <p>Comment: Satisfactory. Relevant conditions apply as recommended by Council's Environmental Officer</p>
<p>Clause 35 – Solar Access and Design for Climate</p>	
<p>(a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and</p>	<p>Applicant's response: <i>The orientation of the site and design of the proposed buildings, as well as the numerous areas of private open spaces provided on the site, allows for sunlight access throughout different times of the day/year.</i></p> <p>Comment: Satisfactory. The submitted solar access diagrams demonstrate that overshadowing between 9am to 12 noon is generally consistent with existing shadows. At 12 noon it is actually an improvement. At 3pm there is additional overshadowing cast over the Aranda Gardens dwellings to the south-east however this is relatively minor</p>
<p>(b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction</p>	<p>Applicant's response: <i>The proposal has been design in accordance with the provisions of Section J of the BCA, with regards to energy efficiency.</i></p> <p>Comment: Satisfactory in concept. BCA compliance condition applies</p>
<p>Clause 36 - Stormwater</p>	
<p>(a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious</p>	<p>Applicant's response: <i>A Stormwater Concept Design has been prepared by Northrop.</i></p> <p>Comments: Revised stormwater plans supported and form part</p>

material, minimising the width of paths and minimising paved areas,	of conditions of consent
(b) include, where practical, on-site stormwater detention or re-use for second quality water uses.	<p>Applicant's response: <i>On-Site Detention is provided as part of the site's stormwater strategy, as well as stormwater reuse is proposed on the site for irrigation, consistent with this clause.</i></p> <p>Comments: Revised stormwater plans supported and form part of conditions of consent</p>
Clause 27 – Crime Prevention	
(a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and	<p>Applicant's response: <i>The principle of crime prevention have been considered in the layout, design and landscaping of the proposal.</i></p> <p>Comment: Satisfactory</p>
(b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and	<p>Applicant's response: <i>The main entry to the facility is provided with access off Mary Street. This entry will be monitored by the facility staff and reception area. A secondary entry to the proposed multi-purpose facility will be provided from Mary Street. This will be controlled by electronic entry points and by facility staff as required.</i></p> <p>Comment: Satisfactory</p>
c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.	<p>Applicant's response: <i>The proposed bedrooms have been designed to provide an outlook onto Mary and Millar Streets, as well as orientation of beds and communal open space for passive surveillance to the internal piazza and landscaped areas.</i></p> <p>Comment: Satisfactory</p>
Clause 38 - Accessibility	
The proposed development should:	
(a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and	<p>Applicant's response: <i>The proposal has been design to have clearly marked pedestrian and vehicle entry points from Mary and Millar Street. Accessible paths of travel (in accordance with the Seniors Living SEPP) are also available to nearby public transport.</i></p> <p>Comment: Satisfactory</p>
(b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.	<p>Applicant's response: <i>The proposal incorporates accessible and attractive internal pathways and courtyards within the site including the use of suitable planting provisions and covered pathways.</i></p> <p>Comments: Satisfactory</p>
Clause 39 – Waste Management	
The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities	<p>Applicant's response: <i>An Operational Waste Management Plan has been prepared by The Mack Group which details the storage and waste handling procedures for the facility.</i></p> <p>Comment: Satisfactory. The operational Waste Management Plan has been reviewed and supported by Council's Waste Management Officer</p>
Clause 40 – Development Standards	
Site Size – Minimum 1,000sqm	<p>Applicant's response: <i>The proposal complies with this provision with a site area of 8,989m2.</i></p> <p>Comment: Complies</p>
Site Frontage – Minimum 20m	<p>Applicant's response: <i>The site has two street frontages being 85m (Millar Street) and 110m (Mary Street), consistent with this control.</i></p> <p>Comment: Complies</p>
Height Zones where residential flat building are not permitted a) the height of all buildings in the proposed development must be 8 metres [as defined within the Seniors Housing SEPP] or less, and b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and c) a building located in the rear 25% area of the site must not exceed 1 storey in height.	<p>Applicant's response: <i>A variation to these development standards has been prepared.</i></p> <p>Comment: The applicant's Clause 4.6 and SEPP 1 submissions regarding departure from the standard is supported as discussed in this report</p>
Clause 48 – Standards that cannot be used to refuse development consent for residential care facilities	
(a) building height: if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys), or	<p>Applicant's response: <i>The proposed development exceeds 8m in height.</i></p> <p>Comment: The applicant's Clause 4.6 and SEPP 1 submissions regarding departure from the standard is supported as discussed in this report</p>

(b) density and scale: if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less,	<p>Applicant's response: The proposed development has a total FSR of 1.33:1.</p> <p>Comment: The applicant's Clause 4.6 written request for departure from the standard is supported as discussed in this report</p>
(c) landscaped area: if a minimum of 25 square metres of landscaped area per residential care facility bed is provided,	<p>Applicant's response: A total of 3,971m² of landscaped area is proposed to cater for the total of 157 residents. This equates to 25.29m² per resident.</p> <p>Comment: Satisfactory</p>
<p>(d) parking for residents and visitors: if at least the following is provided:</p> <ul style="list-style-type: none"> – (i) 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and – (ii) 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and – (iii) 1 parking space suitable for an ambulance. 	<p>Applicant's response: The total car parking provision of 75 spaces exceeds the required parking rates set out in this provision.</p> <p>Comment: The proposal satisfies the on-site parking requirements</p>

The proposal performs adequately against the requirements of the *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004* and achieves the aims of the policy.

The applicant's clause 4.6 written request for departure from the Building height and FSR standards is considered well founded and supported in this instance.

It is considered that the proposal has been appropriately designed to integrate well into the streetscape with regard to its urban character. The proposed bulk and scale of the development, its materials and colours, the building articulation in general and the siting and height of new buildings being not inconsistent with existing structure of the site, are considered in combination to maintain a reasonable and similar level of amenity to its surrounds.

4.3.6 Canada Bay Local Environmental Plan 2013

The site consists of land zoned *R2 Low Density Residential* under the *Canada Bay Local Environmental Plan 2013* (CBLEP). The proposed development comprises an *aged care facility*, which is not a permissible use within the designated land use zone under Part 2 of the CBLEP however it is permissible by virtue of the *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004*.

Clause 4.3 Height of Buildings

Pursuant to sub clause (2) the maximum height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map which is **8.5m**.

The highest point of the building is RL44.85 (13.93m) measured to the top of the projecting lift overrun structures. This equates to a 5.43 metre departure from the LEP development standard. The maximum building height (RL 43.550), which excludes the lift overruns, is 12.13 metres above the existing ground line. This equates to a 4.13 metre departure from the LEP development standard.

It is noted that the existing buildings on the site already exceed the maximum building height control and that the proposal does not seek to exceed that existing building height for its primary building structures.

The applicant has sought to vary the building height standard under the provisions in clause 4.6 of the *Canada Bay Local Environmental Plan 2013* and an objection under *State Environmental Planning Policy No. 1* to the building height standard. See discussions below.

Clause 4.4 Floor Space Ratio

Clause 4.4(2) states that 'The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map'. The maximum FSR applicable to the site as indicated on the Floor Space Map (sheet 06) is 0.5:1.

The area of the Site is 8,989m² and the proposal involves a total gross floor area (GFA) of 11,999m², which equates to an FSR of 1.33:1. The proposed FSR therefore exceeds the maximum FSR development standard by 0.83:1. Nevertheless, the proposal is considered to remain consistent with

primary objectives of sub clause (1) which seek to ensure that buildings are compatible with the bulk and scale of desired future character of the locality, provide suitable balance between landscaping and minimise the effects of bulk and scale of buildings.

The applicant has sought to vary the floor space ratio standard under the provisions of clause 4.6 of the *Canada Bay Local Environmental Plan 2013*. See discussions below.

Clause 4.6 Exceptions to development standards (CBLEP)

(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 of the development standard by demonstrating:*

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

(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.*

(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 concurrence.*

4.3.7 Clause 4.6 Variation to Development Standard - Clause 4.3 Height of Buildings

The applicant has submitted a written request that seeks to justify the contravention of the development standard. The applicant's written request is summarised as follows (for the applicant's full written request see latest revised version prepared 27/10/2015 and reviewed 28/10/2015).

Justification for Contravention of the Development Standard

Clause 4.6(3) of the Canada Bay LEP 2013 states that a consent authority must not grant consent for development that contravenes a development standard unless it has considered a statement 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.*

Further, clause 4.6(4) of the Canada Bay LEP 2013 provides that development consent must not be granted for development that contravenes a development standard unless:

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

Assistance on the approach to justifying a contravention to a development standard is also to be taken from the applicable decisions of the NSW Land and Environment Court and the NSW Court of Appeal in:

1. *Wehbe v Pittwater Council [2007] NSW LEC 827;*
2. *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009; and*
3. *Micaul Holdings Pty Limited v Randwick City Council [2015] NSWLEC 1386.*

The relevant matters contained in clause 4.6 of the Canada Bay LEP 2013, with respect to clause 4.3 of the Canada Bay LEP 2013 are each addressed below, including with regard to these decisions.

Clause 4.6(3)(a): Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

The underlying objectives or purposes of the development standards

The objectives of the development standard are provided in clause 4.3(1) of the Canada Bay LEP. That clause states:

- (1) *The objectives of this clause are as follows:*
 - a) *to ensure that buildings are compatible with the desired future character in terms of building height and roof forms,*
 - b) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development.*

To ensure that buildings are compatible with the desired future character in terms of building height and roof forms

In order to determine whether the proposed buildings are compatible with the desired future character of the area, it is essential in the first instance to determine what this desired future character is.

Under the Canada Bay Local Environmental Plan 2013, residential aged care facilities are a prohibited use within the R2 Low Density Residential zone that applies to the Site. The objectives of the R2 zone are to:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

From these objectives it can be gathered that development in the R2 zone should provide for the housing needs of the community, as well as other day to day residential facilities and services, in a manner that is compatible with a low density residential environment. The objective clearly does not require a homogenous built form comprising only detached housing, but rather emphasises that the character should be compatible with a low density environment. This does not mean that the scope for taller buildings is excluded. The existing buildings on the Site, which are institutional in their architecture, taller than adjoining residential dwellings (which range between one and two storeys in height) and are located prominently along two street frontages nonetheless sit comfortably within the low density residential environment.

The proposal is compatible with the desired future character of the locality in terms of building height and roof forms, for the reasons set out below.

First, 'compatible' does not mean the same. In Project Venture Developments v Pittwater Council [2005] NSWLEC 191 at pars 22-30, Senior Commissioner Roseth stated:

22 There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.

Secondly, the proposed development reflects the height, form and siting of the existing buildings as they present to the street, which provide comparisons between the existing and proposed Millar and Mary Streets elevations.

Thirdly, the façades have been designed to minimise the apparent height of the buildings when viewed from Millar and Mary Streets.

Fourthly, the proposal is compatible with the height of adjoining development to the south-east and south-west (rear), despite the increased height adjacent to these boundaries compared to the existing buildings.

Compatibility with the adjoining developments is achieved as follows:

- **Setbacks:** *With exception of where existing buildings are to be retained (being the existing hall and south western building), the buildings for the most part have been setback from the common property boundaries beyond that of the existing dwellings, and the setbacks increase at the upper levels.*
- **Overshadowing:** *Overall, the proposed development will not adversely impact upon the existing level of solar access currently enjoyed by the surrounding residents and will not give rise to any unacceptable overshadowing impacts within the site either. While during the morning (on June 21) additional shadow is cast over a small number of adjoining properties, overall, the proposed development provides substantial improvements to the solar access of surrounding dwellings. This has been achieved by increasing the existing setbacks to common property boundaries and stepping the building height down toward the common property boundaries.*
- **Visual privacy:** *The proposal has been designed to ensure suitable levels of visual privacy are maintained to surrounding residential land uses and avoid direct overlooking. This has been achieved by a combination of building setbacks, stepping back of the building height and the inclusion of access control or screening to some upper-level balconies to prevent direct overlooking.*
- **Acoustic privacy:** *The acoustic amenity of residents adjoining the site has been considered in the Acoustic Report prepared by Acoustic Logic which is appended to the SEE. The report identified that the operation of the aged care facility, including noise generated from plant and equipment, vehicle movements, and loading and servicing, will be within acceptable ranges of noise and will not adversely impact these residents.*

It is also clear that the proposed residential aged care facility will meet the housing needs and day to day needs in terms of facilities and services for residents of Drummoyne and Canada Bay, which cannot be met solely through typical residential houses and apartments. The proposed development's primary purpose is to provide suitable accommodation options for a significant and fast-growing segment of the local population. The specialised dementia care facility proposed on the Site is targeted to meet an existing gap in the residential aged care market, where dementia care is generally provided as an add-on to general aged care facilities.

The proposal achieves the first underlying objective of the height development standard in clause 4.3 of the Canada Bay LEP 2013. In summary, that is because:

- *The proposed development reflects the height, form and siting of the existing buildings as they present to the street;*
- *The building façades have been designed to minimise the apparent bulk and scale of the development through façade articulation and setbacks;*

- The proposal has been designed to exist together in harmony with adjoining development to the rear (i.e., south-east and south-west) by reducing adverse amenity impacts.

To minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development

Visual Impact

It is considered that the proposed development will not cause adverse visual impacts on the basis that it will:

- *be similar in building height to the current two storey buildings on the Site;*
- *be of similar apparent scale and bulk to the existing buildings when viewed from both Mary and Millar streets;*
- *not generate substantial additional overshadowing to existing adjoining residential premises;*
- *be generally setback from adjoining boundaries with existing residential development; and*
- *be visually screened at the upper levels by existing significant trees and new advanced landscaping.*

Views

The Site's location is such that development will not impact on any significant views or view corridors.

Privacy

In terms of visual privacy, the proposal, including the location and orientation of windows and balconies, has been designed to ensure suitable levels of visual privacy are maintained to surrounding residential land uses and avoid direct overlooking. This has been achieved by a combination of building setbacks, stepping back of the building height and the inclusion of access control or screening such as fixed planter boxes to some upper-level balconies to prevent direct overlooking. At the upper levels, which are the subject of this request for a variation to the development standard, internal areas of units are set back between 9 and 12 metres and fixed planter boxes will be installed at balcony edges. This will eliminate the ability for direct views between internal areas of units and adjacent dwellings, and substantially limit the ability of persons standing on balconies to see into adjoining properties.

The acoustic amenity of residents adjoining the site has been considered in the Acoustic Report prepared by Acoustic Logic which is appended to the SEE. The report identified that the operation of the aged care facility, including noise generated from plant and equipment, vehicle movements, and loading and servicing, will be within acceptable ranges of noise and will not adversely impact these residents.

Solar Access

Detailed shadow diagrams have been provided with the DA illustrating shadows cast as a result of the proposed development. Due to the proximity of existing buildings within the Site to the south-east and south-west boundaries, the proposed development results in no additional overshadowing impacts on adjacent properties. As the upper levels of the proposed building are to be set back, the proposed height variation has little effect on the overall shadowing. All dwellings adjoining the site will receive a minimum of between 4 and 5 hours of direct solar access to windows in the worst-case scenario of 21 June (the winter solstice). It is therefore considered that this objective is achieved given that the proposed development, despite the height exceedance, will not result in any significant impact on solar access to adjacent properties.

Comment: As discussed above, the design cues taken from existing structures on the site are considered reasonable given the unique development opportunity presented. The result is considered to adequately satisfy the objectives of the standard. The applicant has also agreed to retain a further two (2) significant trees as conditioned. On-going arboricultural assessment and supervision is also required by condition of consent to ensure growth and survival.

Better Planning Outcome

The proposed variation to clause 4.3 results in a better planning outcome than a development that would comply. That is because the additional height, in particular the additional storeys, provides additional floor space within which to provide high quality seniors housing accommodation and facilities for the social welfare of the ageing community, in particular individuals living with dementia.

The additional floor space that arises from the provision of additional height in storeys provides a GFA/resident ratio that is substantially more generous than industry guidelines and practice. This is because the proposed residential aged care facility will specialise in providing care and accommodation for individuals living with dementia.

Bickerton Masters Architects have estimated that a scheme that is fully compliant with both the building height and floor space ratio controls would be able to provide accommodation for only 59 residents – less than half of those provided under the propose scheme. This would represent a significant lost opportunity to provide much-needed residential aged care within the Canada Bay LGA, and would result in additional pressure to provide this type of accommodation elsewhere within the LGA.

Strictly enforcing the standard in clause 4.3 would impact on the feasibility of offering specialised dementia care on the site and would either severely reduce the number of places able to be offered or force consideration of other less floorspace consuming care models. This outcome would result in an inferior planning outcome given the pressing need to provide both an increase in the supply of accommodation and care options for individuals living with dementia as well as the need for better-designed facilities that provide a higher quality of life for those individuals living with dementia.

Conclusion with regard to clause 4.6(3)(a)

Having regard to the above, compliance with the development standard in clause 4.3 of the Canada Bay LEP 2013 would be unreasonable and unnecessary in the circumstances of the case because:

- The proposed development is compatible with the desired future character of the locality in terms of building height and roof forms. Compatibility is achieved because the additional height will not have adverse visual impacts or adverse amenity impacts on adjoining development;*
- The proposed development minimises visual impact, loss of privacy and loss of solar access to existing development. This is achieved through generous setbacks, stepping back of building heights towards site boundaries, landscaping and privacy screening;*
- The additional height will achieve a better planning outcome than a compliant development because it enables the provision of additional floor space within which to provide high quality seniors housing accommodation and facilities for the social welfare of the ageing community, in particular individuals living with dementia who have particular spatial requirements;*
- The proposed development is consistent with the aims of the Canada Bay LEP; and*
- The proposed development is consistent with the objects of the Environmental Planning and Assessment Act 1979, in particular objective (b)(ii) which is to encourage the development of cities, towns and villages for the purpose of promoting the social welfare of the community.*

Clause 4.6(3)(b): Sufficient environmental planning grounds to justify contravening the development standard

In our opinion, there are sufficient environmental planning grounds to justify contravening the development standard contained in clause 4.3. Those grounds are set out below (see applicant's submission for full details).

- The existing buildings already exceed the development standards*
- The additional height is contained within the existing roof forms*
- The street elevations have been designed to minimise the perceived number of storeys*
- The proposed steps down towards the south-eastern and south-western boundaries*
- Environmental and amenity impacts of the additional height*
 - Is consistent with, or improves, the location of bulk and scale on the site compared to existing development in order to minimise impacts on adjoining residences;*
 - Achieves a neutral or positive impact on daylight access to neighbouring dwellings; and*
 - Does not give rise to any adverse visual impacts, and will result in an improved architecture on the site with greater articulation and a coordinated landscaping scheme.*

Conclusion with regard to clause 4.6(3)(b)

Having regard to the above, there are sufficient environmental planning grounds to justify contravening the development standards because:

- existing buildings on the site already exceed the development standard;
- the proposed development is substantially the same in its presentation of height and perceived mass to the street and will improve the presentation of height and building mass to adjoining properties;
- the proposed variation from the building height development standard does not give rise to any environmental or amenity impacts on surrounding properties or the public domain; and
- the delivery of seniors housing on the site is considered to be in the public interest, and the variation to the development standard will allow for more of this need to be fulfilled in a more efficient manner.

Clause 4.6(4)(a)(ii): In the public interest: consistency with objectives of the zone and development standards

Clause 4.6(4)(a)(ii) of the Canada Bay LEP 2013 provides that:

- (4) Development consent must not be granted for development that contravenes a development standard unless:
 - (a) the consent authority is satisfied that:
 - ...
 - (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...

Therefore, the consent authority must not grant development consent for development that contravenes a development standard unless it is satisfied that it is 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.

The public benefit of maintaining the development standard

There is no public benefit in maintaining the development standard in terms of State and regional planning objectives. The additional height proposed reflects the height of existing buildings on the Site, and the proposed variation would not give rise to any adverse environmental impacts.

The Site is unique in that the blanket building height applying to the locality under the LEP is substantially lower than the height of existing buildings on the Site. It is not considered that there would be any public benefit for the height of the existing building to be reduced, particularly where key planning issues deriving from height, such as privacy and overshadowing, have been resolved through architectural design.

Other Matters for Consideration

Under clause 4.6(5) in deciding whether to grant concurrence, the Director-General must consider the following matters:

- a) whether non-compliance with the development standard raises any matter of significance for State or regional planning; and
- b) the public benefit of maintaining the planning controls adopted by the environmental planning instrument.

These matters are addressed in detail below.

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

The variation of the building height development standard under the Canada Bay LEP 2013, in order to allow new development of a height which is generally in accordance with the height of existing buildings on the Site, does not raise any matter of significance for State or regional planning. We do

note, however, that the proposal is consistent with the most recent metropolitan plan for Sydney, A Plan for Growing Sydney in that it:

- provides accommodation and services to meet the needs of the local population, both at the present time and in the future as Sydney's population grows and ages;*
- allows for the use of the Site to continue to provide local employment opportunities;*
- is well located to public transport connections; and*
- does not affect any heritage assets.*

The proposal also supports the aims of the Seniors Housing SEPP, which is a matter of significance for state planning, in that it:

- increases the supply and diversity of accommodation and care facilities for seniors;*
- makes efficient use of existing infrastructure and services by complying with the location and access provisions of the SEPP; and*
- promotes good design, not just in terms of external built form but also through the adoption of international best-practice principles for the design of specialised dementia facilities.*

The public benefit of maintaining the development standard

As demonstrated above, there is no public benefit in maintaining the development standard in terms of State and regional planning objectives. As noted in the preceding sections, the additional height proposed reflects the height of existing buildings on the Site, and the proposed variation would not give rise to any adverse environmental impacts.

The Site is unique in that the blanket building height applying to the locality under the LEP is substantially lower than the height of existing buildings on the Site. It is not considered that there would be any public benefit for the height of the existing building to be reduced, particularly where key planning issues deriving from height, such as privacy and overshadowing, have been resolved through architectural design.

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

The proposed variation will facilitate the orderly and economic redevelopment of an underused site for the purposes of new residential aged care accommodation that will contribute to accommodation choice in the Canada Bay LGA and the achievement of the strategic objectives of A Plan for Growing Sydney and the draft Inner-West Subregional Strategy.

There are no other matters for consideration. The relevant consent authority and Director-General can therefore be satisfied that:

- compliance with the development standard is unreasonable and unnecessary in the circumstances of the case; and*
- there are sufficient environmental planning grounds to justify contravening the development standard.*

It is therefore requested that with concurrence from the Director-General, Council grant development consent for the proposed development even though it contravenes the building height development standard imposed by the Canada Bay LEP 2013.

Comment: *It is considered that the applicant has provided a thorough assessment that justifies compliance with the Building height development standard contained in clause 4.3(1) of the Canada Bay LEP 2013 is both unreasonable and unnecessary in the circumstances of the case and that the justification is well founded.*

It is considered that the variation allows for the orderly and economic use of the land in an appropriate manner that will result a better planning outcome by taking advantage of a unique opportunity to provide a high level of residential accommodation and care of the social welfare of an ageing community sector.

Council is satisfied that the applicant's clause 4.6 variation demonstrates that, notwithstanding the non-compliance with the FSR development standard, the proposed development:

- Satisfies the underlying objectives of the development standard for FSR in clause 4.3(1) of the Canada Bay LEP 2013;**
- Satisfies the objectives of the R2 Low Density Residential zone under the Canada Bay LEP 2013;**

- Is consistent with the applicable and relevant state and regional planning policies;
- Provides for a better planning outcome;
- Has sufficient environmental planning grounds to permit the variation; and
- Is in the public interest.

As such, the Development Application is recommended for approval with the variation as proposed in accordance with flexibility allowed under clause 4.6 of the Canada Bay LEP 2013.

4.3.8 Clause 4.6 Variation to Development Standard - Clause 40(4) of the Seniors Housing SEPP

The applicant has included a written request under the provisions of clause 4.6 of the CBLEP that seeks to justify contravention of the development standards set out in clause 40 of the Seniors Housing SEPP. (for the applicant's full written request see the latest revised version prepared 27/10/2015 and reviewed 28/10/2015).

40 Development standards—minimum sizes and building height

(4) Height in zones where residential flat buildings are not permitted
If the development is proposed in a residential zone where residential flat buildings are not permitted:

(a) the height of all buildings in the proposed development must be 8 metres or less, and

Note. Development consent for development for the purposes of seniors housing cannot be refused on the ground of the height of the housing if all of the proposed buildings are 8 metres or less in height. See clauses 48 (a), 49 (a) and 50 (a).

(b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and

Note. The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.

(c) a building located in the rear 25% area of the site must not exceed 1 storey in height.

Applicant's response

Relevantly, the proposed development comprises buildings:

1. **[Clause 40(4)(a)]** with a maximum building height of 13.25 metres (in accordance with clause 3 of the Seniors Housing SEPP), which is a variation of 5.25 metres from the development standard;
2. **[Clause 40(4)(b)]** which are adjacent to a boundary of the site which are more than two storeys in height, being up to four storeys; and
3. **[Clause 40(4)(c)]** which are located in the 'rear' 25% of the site, and exceed one storey.

These elements of the proposed development are depicted in **Figure 1** below. The RLs indicated are as follows:

- RL 43.55m AHD (red) is the maximum roof height excluding lift overruns;
- RL 44.85m AHD (green) is the maximum roof height including four lift overruns.

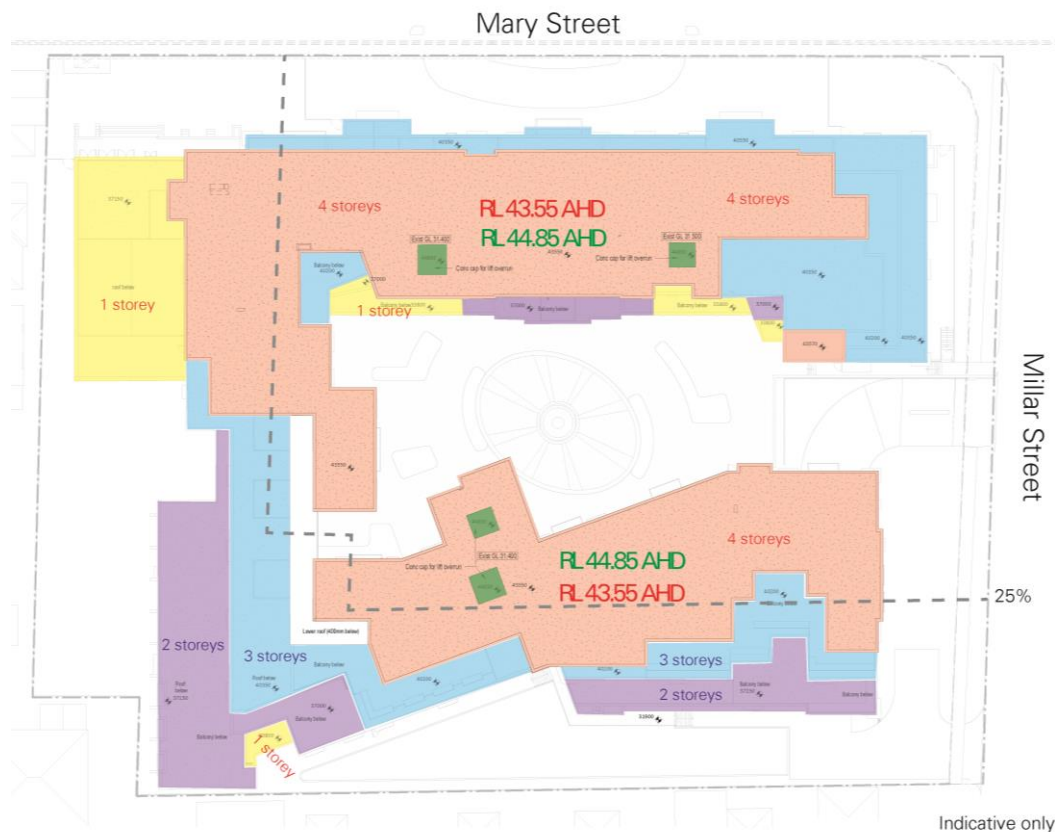


Figure 1 – Proposed maximum building heights (upper level), height in storeys and nominal 'rear' 25% zone
Source: Bickerton Masters Architects

Compliance with the development standards in clause 40(4) of the Seniors Living SEPP would be unreasonable and unnecessary in the circumstances of the case because:

1. [Clause 40(4)(a)] the existing buildings fronting Millar and Mary Streets already exceed the 8m height standard, the overall height is commensurate with the existing buildings fronting Millar and Mary Streets, the additional height is contained within the existing roof forms, the proposed development will have a neutral or improved impact on adjoining development in terms of solar access and privacy and as such achieves the underlying purposes of the development standard notwithstanding the non-compliance;
2. [Clause 40(4)(b)] the additional storeys are contained within the existing roof forms, the street frontages have been designed to minimise the perceived number of storeys from the street, the proposal has been designed to step down towards the south-eastern and south-western boundaries along the street frontage, commensurate with existing development and as such achieves the underlying purposes of the development standard notwithstanding the non-compliance; and
3. [Clause 40(4)(c)] the existing two-storey buildings within the rear 25% of the site already exceed a single storey height, the proposal has been designed to step down towards the south-eastern and south-western boundaries along the street frontage, commensurate with existing development, and the proposed development will have a neutral or improved impact on adjoining development in terms of solar access and privacy and as such achieves the underlying purposes of the development standard notwithstanding the non-compliance;.

The existing buildings already exceed the development standards

Existing buildings on the site currently exceed the building height and storeys development standards in a number of areas, including:

- Existing buildings fronting Millar and Mary Street exceed the 8m height control.

- Existing two storey buildings are located immediately adjacent to the south-western site boundary and entirely within the 'rear 25% of the site'.
- The existing chapel building on the south-western boundary fronting Mary Street has an effective height that is greater than two storeys.

The additional height is contained within the existing roof forms

The proposed development reflects the height, form and siting of the existing buildings as they present to the street.

The street elevations have been designed to minimise the perceived number of storeys

This is achieved by slightly recessing the ground floor and by setting back the upper level (Level 3) further from the street than Levels 1 and 2. As a result, the most dominant elements of the façade will only be two storeys, thereby reducing the buildings' perceived bulk and scale.

The proposal steps down towards the south-eastern and south-western boundaries

- At the eastern end of Mary Street, the setback of the upper levels increases to provide a stepped building form and reduction in height closer to the property boundary, commensurate with the existing pitched roof form;
- At the western end of Mary Street, the proposal retains the existing hall building to provide a transition between the site and the two-storey development to the west;
- At both the northern and southern ends of Millar Street, the setback of the upper levels increases to provide a stepped building form and reduction in height closer to the property boundary, commensurate with the existing pitched roof form.

Environmental and amenity impacts of the additional height

The additional height above the development standard does not give rise to any environmental or amenity impacts as it:

- Is consistent with, or improves, the location of bulk and scale on the site compared to existing development in order to minimise impacts on adjoining residences;
- Achieves a neutral or positive impact on daylight access to neighbouring dwellings; and
- Does not give rise to any adverse visual impacts, and will result in an improved architecture on the site with greater articulation and a coordinated landscaping scheme.

Comment: It is considered that the applicant has adequately demonstrated that compliance with the building height development standard contained in clause 40(4) of the Seniors Housing SEPP is unreasonable and unnecessary in the circumstances of the case and that the justification is well founded.

Further, it is agreed that the variation allows for the orderly and economic use of the land in an appropriate manner, whilst also allows for a better outcome in terms of planning.

Council is satisfied that the applicant's clause 4.6 variation demonstrates that the proposed development:

- Satisfies the underlying objectives of the development standards for height and storeys in clauses 40((4)(a), (b) and (c) of the Seniors Housing SEPP;
- Satisfies the objectives of the Seniors Housing SEPP;
- Satisfies the objectives of the R2 Low Density Residential zone under the Canada Bay LEP 2013;
- Is consistent with the applicable and relevant state and regional planning policies;
- Provides for a better planning outcome;
- Has sufficient environmental planning grounds to permit the variation; and
- Is in the public interest.

Council recommends to the Panel that the development application be approved with the variation as proposed in accordance with the flexibility allowed under clause 4.6 of the Canada Bay LEP 2013.

4.3.9 Clause 4.6 Variation to Development Standard - Clause 4.4 Floor Space Ratio

The applicant has submitted a detailed written request that seeks to justify the contravention of the development standard in the CBLEP. The applicant's written request is summarised as follows (for the applicant's full written request see the latest revised version prepared 27/10/2015 and reviewed 28/10/2015).

Justification for Contravention of the Development Standard

Clause 4.6(3) of the Canada Bay LEP 2013 states that a consent authority must not grant consent for development that contravenes a development standard unless it has considered a statement 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.*

Further, clause 4.6(4) of the Canada Bay LEP 2013 provides that development consent must not be granted for development that contravenes a development standard unless:

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

Assistance on the approach to justifying a contravention to a development standard is also to be taken from the applicable decisions of the NSW Land and Environment Court and the NSW Court of Appeal in:

- 4. Wehbe v Pittwater Council [2007] NSW LEC 827;*
- 5. Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009; and*
- 6. Micaul Holdings Pty Limited v Randwick City Council [2015] NSWLEC 1386.*

The relevant matters contained in clause 4.6 of the Canada Bay LEP 2013, with respect to clause 4.4 of the Canada Bay LEP 2013 are each addressed below, including with regard to these decisions.

The objectives of the development standard contained in clause 4.4(1) of the Canada Bay LEP 2013 are:

- a) to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality,*
- b) to provide a suitable balance between landscaping and built form,*
- c) to minimise the effects of bulk and scale of buildings.*

To ensure that buildings are compatible with the bulk and scale of the desired future character of the locality

In order to determine whether the proposed buildings are compatible with the desired future character of the locality, it is essential in the first instance to determine what this desired future character is.

Under the Canada Bay LEP 2013, residential aged care facilities are a prohibited use within the R2 Low Density Residential zone that applies to the Site. The objectives of the R2 zone are:

- To provide for the housing needs of the community within a low density residential environment.*

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

From these objectives it can be gathered that development in the R2 zone should provide for the housing needs of the community, as well as other day to day residential facilities and services, in a manner that is compatible with a low density residential environment. The objective clearly does not require a homogenous built form comprising only detached housing, but rather emphasises that the character should be compatible with a low density environment. This does not mean that the scope for additional floor space is excluded. The existing buildings on the Site, which are institutional in their architecture, taller than separate residential dwellings and located prominently along two street frontages nonetheless sit comfortably within the low density residential environment.

The proposal is compatible with the desired future character of the locality in relation to bulk and scale, for the reasons set out below.

First, 'compatible' does not mean the same. In *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191 at pars 22-30, Senior Commissioner Roseth stated:

22 There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.

Secondly, the proposed development largely reflects the height, bulk, form and siting of the existing buildings as they present to the street. Despite the increase in the number of storeys, the overall height, bulk and scale of the proposed buildings closely matches the existing. The siting and street frontage width of the proposed buildings are also similar to the existing buildings.

Compatibility with the adjoining developments is achieved as follows:

Setbacks: With exception of where existing buildings are to be retained (being the existing hall and south western building), the buildings for the most part have been setback from the common property boundaries beyond that of the existing dwellings, and the setbacks increase at the upper levels.

Overshadowing: Overall, the proposed development will not adversely impact upon the existing level of solar access currently enjoyed by the surrounding residents and will not give rise to any unacceptable overshadowing impacts within the site either.

Visual privacy: The proposal has been designed to ensure suitable levels of visual privacy are maintained to surrounding residential land uses and avoid direct overlooking.

Acoustic privacy: The acoustic amenity of residents adjoining the site has been considered in the Acoustic Report prepared by Acoustic Logic which is appended to the SEE.

The proposed residential aged care facility will meet the housing needs and day to day needs in terms of facilities and services for residents of Drummoyne and Canada Bay, which cannot be met solely through typical residential houses and apartments. The specialised dementia care facility proposed on the Site is targeted to meet an existing gap in the residential aged care market, where dementia care is generally provided as an add-on to general aged care facilities.

The proposal achieves the first underlying objective of the FSR development standard in clause 4.4 of the Canada Bay LEP 2013. In summary, that is because:

The proposed development reflects the height, bulk, form and siting of the existing buildings as they present to the street;

The proposal has been designed to exist together in harmony with adjoining development to the rear (i.e., south-east and south-west) by reducing adverse amenity impacts.; and

The proposal will meet the day to day needs of residents in terms of facilities and services for the residents of Drummoyne and Canada Bay.

Comment: The submitted plans and diagrams include comparisons between the existing and proposed Millar and Mary Streets elevations. It is considered that this information adequately demonstrates that the overall height proposed is consistent with that already existing. Further,

the existing institutional buildings on the site have existed together within surrounding low density development in relative harmony since the construction of the original institutional development, albeit with substantial differences in density, scale and aesthetic appearance.

To provide a suitable balance between landscaping and built form

The proposal seeks to retain a number of significant trees on the site where possible and provide a significant level of landscaping within the site (that complies with the requirements of clause 48 of the Seniors Housing SEPP) and to the site's street frontages of Mary Street and Millar Street. The balance proposed, given the retention of the existing building forms, is considered to be suitable in this instance, and an improvement from the current situation.

The additional FSR does not give rise to any additional loss of vegetation or landscaping on the site. The majority of trees being removed are in poor condition or are being removed as a result of level changes required to accommodate the proposed development. New landscape plantings will be incorporated along the street frontages and within the site to create high amenity and a positive impact on the streetscape.

Comment: The applicant has also agreed to retain significant trees as conditioned. On-going arboricultural assessment and supervision is also required by condition of consent to ensure growth and survival.

To minimise the effects of bulk and scale of buildings

The design of the building will improve the relationship between new development and adjoining dwellings by providing wider setbacks, improved solar access and a stepping back of buildings at upper levels including additional landscaping provided to the common property boundaries between the site and adjoining dwellings, breaking up views to the proposed building. Specific matters relating to the effects of bulk and scale are addressed below.

(a) Visual Impact

The proposed development has been carefully designed to reflect the form and siting of the existing buildings and reinforce the existing streetscape and character.

In addition to this, and with exception of where existing buildings are to be retained (being the existing hall and south western building), the development for the most part has been well setback from adjoining sites, beyond that of most of the existing buildings on the site.

Significant trees will be retained providing visual screening of the upper levels from these perspectives. In addition, new advanced landscape plantings will be provided.

It is therefore considered that the proposed development will not cause adverse visual impacts on the basis that it will:

- be similar in terms of bulk and scale to the current two storey buildings on the Site;*
- be of similar apparent scale and bulk to the existing buildings when viewed from both Mary and Millar streets;*
- not generate substantial additional overshadowing to existing adjoining residential premises;*
- be generally setback from adjoining boundaries with existing residential development; and*
- be visually screened at the upper levels by existing significant trees and new advanced landscaping.*

(b) Views

The Site's location is such that development will not impact on any significant views or view corridors.

(c) Privacy

In terms of visual privacy, the proposal, including the location and orientation of windows and balconies, has been designed to ensure suitable levels of visual privacy are maintained to surrounding residential land uses and avoid direct overlooking. This has been achieved by a combination of building setbacks, stepping back of the building height and the inclusion of access

control or screening such as fixed planter boxes to some upper-level balconies to prevent direct overlooking.

The acoustic amenity of residents adjoining the site has been considered in the Acoustic Report prepared by Acoustic Logic which is appended to the SEE. The report identified that the operation of the aged care facility, including noise generated from plant and equipment, vehicle movements, and loading and servicing, will be within acceptable ranges of noise and will not adversely impact these residents.

(d) Solar Access

Detailed shadow diagrams have been provided with the DA illustrating shadows cast as a result of the proposed development. Due to the proximity of existing buildings within the Site to the south-east and south-west boundaries, the proposed development results in no additional overshadowing impacts on adjacent properties. As the upper levels of the proposed building are to be set back, the proposed FSR variation has little effect on the overall shadowing. All dwellings adjoining the site will receive a minimum of between 4 and 5 hours of direct solar access to windows in the worst-case scenario of 21 June (the winter solstice).

Better planning outcome

The proposed variation to clause 4.4 results in a better planning outcome than a development that would comply. That is because the additional FSR provides additional floor space within which to provide high quality seniors housing accommodation and facilities for the social welfare of the ageing community, in particular individuals living with dementia.

Bickerton Masters Architects have estimated that a scheme that is fully compliant with both the building height and floor space ratio controls would be able to provide accommodation for only 59 residents – less than half of those provided under the propose scheme. This would represent a significant lost opportunity to provide much-needed residential aged care within the Canada Bay LGA, and would result in additional pressure to provide this type of accommodation elsewhere within the LGA.

Strictly enforcing the FSR standard would impact on the feasibility of offering specialised dementia care on the site and would either severely reduce the number of places able to be offered or force consideration of other less floorspace consuming care models. This outcome would result in an inferior planning outcome given the pressing need to provide both an increase in the supply of accommodation and care options for individuals living with dementia as well as the need for better-designed facilities that provide a higher quality of life for those individuals living with dementia.

Conclusion with regard to clause 4.6(3)(a)

Having regard to the above, compliance with the development standard in clause 4.4 of the Canada Bay LEP 2013 would be unreasonable and unnecessary in the circumstances of the case because:

- The proposed development is compatible with the desired future character of the locality in terms of bulk and scale. Compatibility is achieved because the additional FSR will not have adverse visual impacts or adverse amenity impacts on adjoining development;
- The proposed development minimises visual impact, loss of privacy and loss of solar access to existing development. This is achieved through generous setbacks, stepping back of building heights towards site boundaries, landscaping and privacy screening;
- The additional FSR will achieve a better planning outcome than a compliant development because it enables the provision of additional floor space within which to provide high quality seniors housing accommodation and facilities for the social welfare of the ageing community, in particular individuals living with dementia who have particular spatial requirements;
- The proposed development is consistent with the aims of the Canada Bay LEP; and
- The proposed development is consistent with the objects of the Environmental Planning and Assessment Act 1979, in particular objective (b)(ii) which is to encourage the development of cities, towns and villages for the purpose of promoting the social welfare of the community.

Comment: It is considered that the applicant has included written and visual documentation to adequately demonstrate the proposal will be compatible with the bulk and scale of the desired future character of the locality.

The development takes advantage of (to provide a significant and quality facility for the social welfare of the ageing community), and maintains, the existing relationship of bulk and scale between surrounding low density development and the institutional buildings on the site, which have co-existed for some time and that would not have otherwise been expected to change in the future.

The siting of the new structure, its height, landscape provisions and privacy measures proposed will work towards minimising any additional related environmental impact to adjoining residential property and is considered not inconsistent with the current context with regard to bulk and scale.

Clause 4.6(4)(a)(ii): In the public interest: consistency with objectives of the zone and development standards

Clause 4.6(4)(ii) of the Canada Bay LEP 2013 Canada Bay Local Environmental Plan 2013 provides that:

- (4) Development consent must not be granted for development that contravenes a development standard unless:
 - (a) the consent authority is satisfied that:
 - (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...

Therefore, the consent authority must not grant development consent for development that contravenes a development standard unless it is satisfied that it is 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.

Consistency with the objectives of the zone

Under the Canada Bay Local Environmental Plan 2013, residential aged care facilities are a prohibited use within the R2 Low Density Residential zone that applies to the Site, with permissibility for the use provided by the Seniors Housing SEPP. The objectives of the R2 zone under the LEP are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

From these objectives it can be gathered that development in the R2 zone should provide for the housing needs of the community, as well as other day to day residential facilities and services, in a manner that is compatible with a low density residential environment.

The objectives clearly do not require a homogenous built form comprising only detached housing, but rather emphasises that the character should be compatible with a low density environment. This does not mean that the scope for higher density buildings is excluded. Existing buildings on the site are institutional in their architecture, taller than adjoining residential dwellings (which range between one and two storeys in height) and are located prominently along two street frontages but nonetheless sit comfortably within the low density residential environment. The proposed development has taken cues from the existing development of the site with regard to maximum building height and street setbacks, and is generally consistent with the built form and scale of the existing development as viewed from Millar and Mary Streets.

The facility will meet the housing needs and day to day needs in terms of facilities and services for residents of Drummoyne and Canada Bay, which cannot be met solely through typical residential houses and apartments.

Notably, the proposed use of the site will be comparable in intensity to the previous educational usage on the site in terms of traffic generation notwithstanding the increase in floor space.

Scalabrini and Bickerton Masters have reviewed international literature and best-practice case studies to develop a purpose-designed facility that will optimise the outcomes for quality of life and care for future residents. This design necessarily involves certain deviations from standard design practice for residential aged care facilities, including the need to provide internal amenity suitable to the capabilities of residents (i.e. the need for lifts to accurately align with floor levels throughout the building to prevent falls, limiting the ability to compress the lift overruns capabilities of residents and a certain level of containment and internalisation of facilities. The existing development of the Site, where the built form is already configured in a similar manner with a central courtyard/car parking, is well suited to the built form requirements of this facility.

Consistency with the objectives of the standard

The proposed development is consistent with the objectives of the FSR standard. The reasons for this are the same reasons why the proposal achieves the objectives of the standard. We have addressed the latter to demonstrate that compliance with the development standards would be unreasonable and unnecessary in the circumstances of the case. Therefore we refer to our arguments in section 3.2 of this clause 4.6 variation.

Overall public interest

The proposed development is also considered to be in the public interest due to its overall positive contribution to the amenity of the streetscape and neighbourhood and its provision of high quality seniors housing at this locality. The provision of high quality residential accommodation for seniors with associated dementia care in this locality delivers a number of significant social and economic benefits to the community as outlined in the SEE. For example, there is forecast to be an 81% increase in the number of persons over the age of 70 living in the Canada Bay LGA. This equates to 6,450 additional residents in the 70+ age bracket, many of whom will require specialised accommodation, care services and facilities.

It is important to note that, as demonstrated in **Table 2** below, the additional gross floor area arises because the facility has been specifically designed to provide a GFA/resident ratio that is substantially more generous than industry guidelines and practice. This is because the proposed residential aged care facility will specialise in providing care and accommodation for individuals living with dementia.

It is clearly in the public interest to facilitate the provision of best-practice care for individuals living with dementia. Current estimates put the number of individuals living with dementia in Australia at 342,800, with this figure expected to rise to 900,000 by 2050¹. A report by Access Economics for Alzheimer's Australia² found that there is approximately 1,300 aged care places in the Reid Commonwealth Electoral District (incorporating Canada Bay Council, Auburn Council and part of Strathfield Council), and that a further 1,000 places will be needed by 2030 (i.e. 15 years from now). Similar growth is projected in the adjacent Commonwealth electorates of Grayndler and Sydney. In this instance, strict adherence to the FSR development standard is counter to the pressing need to deliver additional specialised accommodation to support ageing in the community, as enunciated in the aims of the Seniors Housing SEPP.

Table 1 – Benchmarking of proposed development against industry guidelines and practice

Use	Residential Aged Care Facility Design	Common Industry Standard*	Proposed Development Scalabrini Drummoyne
Bedroom - single	14 m ²	15.9 – 24.42 m ²	19 – 28 m ²
Ensuite - single	5 m ²	4.6 – 6.04 m ²	5 – 7 m ²
Lounge/ Sitting	4.2 m ² / resident	-	4 - 14 m ² / resident
Dining	2 m ² / resident	-	3 – 6 m ² / resident
Activity/ Therapy Space	1.5 m ² / resident	2.7 – 3.85 m ² / resident	8 m ² / resident
Corridor widths	1.5 – 2.2 m (Class 9C)	-	2.2 - 3 m

¹ Alzheimer's Australia – <https://nsw.fightdementia.org.au/about-dementia-and-memory-loss/statistics>

² Access Economics, 'Caring Places: Planning for aged care and dementia 2010-2050', https://fightdementia.org.au/sites/default/files/20110225_Nat_AE_CaringPlacesV2.pdf

Use	Residential Aged Care Facility Design	Common Industry Standard*	Proposed Development Scalabrini Drummoyne
Building area per resident (GFA)	45 m ² / resident	41.62 - 67 m ² / resident	76.34 m ² / resident

* Commercial Aged Care Sector

Other Matters for Consideration

Under clause 4.6(5) in deciding whether to grant concurrence, the Director-General must consider the following matters:

- whether non-compliance with the development standard raises any matter of significance for State or regional planning; and
- the public benefit of maintaining the planning controls adopted by the environmental planning instrument.

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

The contravention of the FSR standard in the Canada Bay LEP 2013 does not raise any matters of significance for State or regional environmental planning. The proposed variation of GFA above the FSR development standard enables the provision of accommodation for individuals living with dementia in an industry best-practice facility.

The proposal is consistent with the objectives of State and regional planning policies, including the Seniors Housing SEPP and A Plan for Growing Sydney in that it:

- contributes to the increase in supply of suitable accommodation for seniors, and in particular provides for a specialised care model for individuals living with dementia which is currently not provided elsewhere in NSW;
- meets the current and future accommodation needs of Sydney's ageing population, which is a key objective of A Plan for Growing Sydney;
- provides seniors accommodation close to existing infrastructure;
- facilitates the continued use of the Site in a manner that contributes to local employment;
- is well located to public transport connections; and
- does not affect any heritage assets.

The proposal also supports the aims of the Seniors Housing SEPP, which is a matter of significance for state planning, in that it:

- increases the supply and diversity of accommodation and care facilities for seniors;
- makes efficient use of existing infrastructure and services by complying the location and access provisions of the SEPP; and
- promotes good design, not just in terms of external built form but also through the adoption of international best-practice principles for the design of specialised dementia facilities.

The public benefit of maintaining the development standard

There is no public benefit in maintaining the development standard in terms of State and regional planning objectives. Providing accommodation for seniors in a highly accessible location within the Canada Bay LGA plays an integral role in helping to meet the broader housing and care needs of a changing population. The proposal plays a role in achieving strategic planning objectives for providing access to a range of care options and choice in accommodation for senior citizens. As noted in the preceding sections, there is a significant public benefit in providing high-care accommodation and care specialising in care for individuals living with dementia on the Site.

Furthermore, concentrating aged care close to transport will assist in reducing the number of trips taken by private vehicles. Overall, it is considered that there is no public benefit in maintaining the development standard in this particular instance.

Comment: It is considered that the applicant has provided a thorough assessment that justifies compliance with the FSR development standard contained in clause 4.4(1) of the Canada Bay LEP 2013 is both unreasonable and unnecessary in the circumstances of the case and that the justification is well founded.

It is considered that the variation allows for the orderly and economic use of the land in an appropriate manner that will result a better planning outcome by taking advantage of a unique opportunity to provide a high level of residential accommodation and care of the social welfare of an ageing community sector.

Council is satisfied that the applicant's clause 4.6 variation demonstrates that, notwithstanding the non-compliance with the FSR development standard, the proposed development:

- Satisfies the underlying objectives of the development standard for FSR in clause 4.4(1) of the Canada Bay LEP 2013;
- Satisfies the objectives of the R2 Low Density Residential zone under the Canada Bay LEP 2013;
- Is consistent with the applicable and relevant state and regional planning policies;
- Provides for a better planning outcome;
- Has sufficient environmental planning grounds to permit the variation; and
- Is in the public interest.

As such, the Development Application is recommended for approval with the variation as proposed in accordance with flexibility allowed under clause 4.6 of the Canada Bay LEP 2013.

4.3.10 Clause 6.1 Acid Sulfate Soils

Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works, except as provided by this clause.

The site is identified as Class 5 Acid sulfate soils. The site is within 500m of Class 2 Acid sulfate soils land and includes excavation of more than one tonne of soils.

Subclause (3)(a) states that development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the *Acid Sulfate Soils Manual*.

A Geotechnical Investigation prepared by Douglas Partners (Project 73642.00) dated November 2014 was submitted with the application. In respect to Acid Sulphate Soils the report provided the following:

Reference to the Prospective/Parramatta River 1:25000 Acid Sulphate Soil Risk Map (produced by the Department of Land and Water Conservation) indicates that the site and surrounding elevated areas are not known acid sulphate soils. The foreshore of Iron Cove, which is approximately 400m to the south-east of the site and approximately 30m below the site, is within the area mapped as having high risk of acid sulphate soils.

Acid sulphate soils typically occur within alluvial or estuarine soils below about RL5m AHD. The shallow residual soils encountered on the site are not associated with potential or actual acid sulphate soils. Specific management strategies in relation to acid sulphate soils are therefore considered unwarranted.

Comment: Council's standard precautionary condition of consent relating to potential acid sulphate soils has been included in the recommended conditions of consent at Appendix A.

4.4 Non-Statutory Planning Policies

4.4.1 City of Canada Bay Development Control Plan

There are no applicable non-statutory numerical standards relevant to the proposed residential aged care facility.

The proposal is considered acceptable with regard to Sustainable Development, Stormwater detention and sediment control, Acid Sulfate Soils, Parking and Waste Management and these matters have been discussed in relevant sections throughout this report.

5. PUBLIC NOTIFICATION AND SUBMISSIONS

5.1 Public Exhibition Details

Under Section 79A of the EP&A Act, the Development Application must be notified or advertised in accordance with the provisions of a development control plan if the development control plan provides for the notification or advertising of the application.

In accordance with Part 2 of the Canada Bay Development Control Plan 'Notification and Advertising', the application was notified to adjoining and nearby property owners and occupiers.

After accepting the Development Application, Council undertook the following actions:

- Made the Application publicly available from **7 September 2015 to 21 September 2015** (14 days)
- On the Canada Bay Council website;
- At the Canada Bay Council Administration Office
- Notified local landowners and residents of proposal (and exhibition period) - 311 letters sent;
- Notification signage was also placed on the development site

5.1.2 Public Submissions

In response to the public notification of the application, thirteen (13) submissions raising objection as well as three (3) submissions of support were received.

Note: Key issues that were raised by submitters have been outlined and addressed below, in summary by the applicant and followed the assessing officer's.

A separate list of all the submitters with their complete written comments/objections have been provided to the JRPP.

Submissions reviewed under this application include those lodged by the following residents/owners/interested parties:

Objection to Proposal x 13	In support of Proposal x 3
Ms S E Cameron (S Spencer) 2 Barney Street DRUMMOYNE NSW 2047	Ms G M Killalea 1 Mary Street DRUMMOYNE NSW 2047
Mrs S L O'Neill 64 Plunkett Street DRUMMOYNE NSW 2047	B Hurley 1 Mary Street DRUMMOYNE NSW 2047
J P Barber & S Doolan 5 Barney Street DRUMMOYNE NSW 2047	G Petri 46B Janet Street DRUMMOYNE NSW 2047
Mr L Edmonds & Ms G Garcia 3/13-15 Millar Street DRUMMOYNE NSW 2047	
Mr W R Matthew & Mrs G Matthew 3 Mary Street DRUMMOYNE NSW 2047	
Mr G Brown & Mrs G R Brown 36 Janet Street DRUMMOYNE NSW 2047	
Ms V Sung 12 Richards Avenue DRUMMOYNE NSW 2047	
Mr D Cordaro 44 Millar Street DRUMMOYNE NSW 2047	
Mr G W Rice 3 Barney Street DRUMMOYNE NSW 2047	
Mr P Gacitua 1 Barney Street DRUMMOYNE NSW 2047	

Mr P L Caccavo (includes the Urbis submission) 46 Millar Street DRUMMOYNE NSW 2047	
Mr N F McDermott 58 Millar Street DRUMMOYNE NSW 2047	
Mr A K Barisic 4 Barney Street DRUMMOYNE NSW 2047	

Summary of issues and responses as follows:

Issue category	Summary of concern raised (refer to submission for full detail)	Submission author	Address in Drummoynes	Applicants Response
Notification	That the description of the application is misleading	Edmonds & Garcia McDermott Sung Caccavo Brown Barisic	3/13 – 15 Millar Street 58 Millar Street 12 Richards Avenue 46 Millar Street 36 Janet Street 4 Barney Street	Applicant's response: The description provided by Council is considered to appropriately characterise the proposed development. Comment: The description is considered to accurately describe the proposal.
Traffic - General	Increased traffic/vehicles during construction	Edmonds & Garcia Gacitua	3/13 – 15 Millar Street 1 Barney Street	Applicant's response: Whilst it is acknowledged that there will be some impacts on local traffic and movements (that would normally be associated with construction works of this nature), a detailed Construction Management Plan will be prepared prior to the commencement of works that will identify measures to minimise use of street parking (through use of travel management measures) as well as controlling access to the site and minimising disruption to local traffic flows. Comment: A draft CMP has been prepared with the application and reviewed by Council's Traffic Engineer. A standard condition of consent has been applied requiring the applicant to provide a detailed CMP prior to Construction Certificate
	That the drop off bay in Mary Street poses a safety risk	Petri McDermott Spencer	46b Janet Street 58 Millar Street 2 Barney Street	Applicant's response: The drop off bay provides for onsite vehicle standing and the drop off/collection of residents and staff. It is envisaged to have infrequent use given the main access to the site for regular visitors, deliveries and staff is provided in the basement. The drop off bay is designed as a predominantly pedestrian space. In conjunction with clear signage, it is very unlikely that the driveway will be used by general traffic for the purpose of U-turns, especially when these can already be performed in Barney Street. The provision of an onsite drop off bay that is at-grade with and in close proximity to site administration entrance, and which is separate from all other vehicle zones (including the street reserve), is an important safety feature of the proposal for both the residents and the community. Comment: The drop off bay configuration and function has been assessed by Council's Traffic Engineer and Traffic Committee and has been supported.

Issue category	Summary of concern raised (refer to submission for full detail)	Submission author	Address in Drummoyne	Applicants Response
				Further, Council at its Meeting of 6 October 2015 approved street changes required for the pick-up/drop-off area in Mary Street
	Traffic poses a danger to local children	Petri McDermott	46b Janet Street 58 Millar Street	<p>Applicant's response: The vehicular access to the site provides for all vehicles to enter and leave the site in a forward direction. The proposed ground levels in conjunction with the landscape design and signage will provide clear sightlines at all vehicle crossovers.</p> <p>Comment: Council's Traffic Engineer has reviewed the proposal with no objection raised to approval</p>
	The "setdown" driveway is uncontrolled, creating opportunities for U-turns, which may create headlight glare directly into neighbouring windows	Caccavo Barisic	46 Millar Street 4 Barney Street	<p>Applicant's response: The entrance to the setdown driveway will be clearly marked to indicate that the site is private property. The demarcation between the roadway and the driveway, including landscaping and different pavement materials, is expected to deter drivers from attempting to utilise the driveway for this purpose. The manoeuvre referred to in this submission serves the same purpose as, and can already be achieved by, a 3-point turn manoeuvre utilising any other private driveway within the street. As such, the overall potential for this bay to result in headlight glare is considered to be minimal.</p> <p>Comment: The drop off bay configuration and function has been assessed by Council's Traffic Engineer and Traffic Committee and has been supported. Further, Council at its Meeting of 6 October 2015 approved street changes required for the pick-up/drop-off area in Mary Street. A condition of consent for final design prior to Construction Certificate has been included</p>
Existing local traffic	'Rat run' to avoid Lyons Rd congestion	Gacitua	1 Barney Street	<p>Applicant's response: Based on the traffic surveys discussed in the Transport Assessment appended to the DA, there is very little difference in the volume of traffic generated by the existing educational use and the proposed aged care use. The project has very little significance in terms of potential impacts on traffic flow in the locality. Hence, the quantum of traffic generated by the proposed development does not warrant any improvements to the local intersections. It is noted that Council engineers have not raised concerns regarding the impact of traffic generation on the local road network.</p> <p>Comment: Council's Traffic Engineer has reviewed the proposal with the submitted traffic analysis and raises no objection to approval, subject to conditions of consent</p>
	Concerns regarding the existing capacity of roads within the vicinity of the site	Barisic Hurley McDermott Spencer Killalea Barber & Doolan	4 Barney Street 1 Mary Street 58 Millar Street 1 Mary Street, Drummoyne 5 Barney Street, Drummoyne	
Traffic Noise	'24/7 operation' will cause excessive noise	Gacitua McDermott	1 Barney Street, Drummoyne 58 Millar Street,	<p>Applicant's response: The proposal is for permanent residential accommodation for 157 seniors who require support and acute care services. Based on the traffic surveys</p>

Issue category	Summary of concern raised (refer to submission for full detail)	Submission author	Address in Drummoyne	Applicants Response
	/traffic impact		Drummoyne	<p>discussed in the Transport Assessment appended to the DA, there is very little difference in the peak volume of traffic generated by the existing educational use and the proposed aged care use. Further, given the residential nature of the facility, nearly all services and associated traffic occurs during the standard business hours (ie. when residents are typically awake). The proposed facility is not a hospital and there would not be regular ambulance movements. As such the proposed development is not expected to result in any adverse impacts on the amenity of neighbours.</p> <p>Comment: Council's Traffic Engineer has reviewed the proposal with submitted traffic analysis and raises no objection to approval, subject to conditions of consent. It is considered that the proposed use would be relatively consistent with the previous institutional use</p>
Parking	Inadequate parking for visitors and suggests a local resident parking plan should be considered	Barber & Doolan	5 Barney Street	<p>Applicant's response: The submission incorrectly suggests 10 visitor parks are provided. The proposal includes basement parking for 75 vehicles. Based on the parking rates from the Roads and Maritime (formally RTA) Guide to Traffic Generating Development, and the Seniors SEPP, and</p> <ul style="list-style-type: none"> - assuming maximum staff on site (i.e. 57 at largest changeover of staff) - assuming 2 doctors visiting site; and - assuming all 17 couples care have a car, and it is on site; and - assuming a facility vehicle is on site; and - assuming 3 vehicles for volunteers; <p>then the worst case peak operation parking demand is 66 vehicles. The parking rates <u>include</u> provision for visitors. Therefore the 75 spaces proposed are more than adequate to cope with the peak operation parking demand including visitors. Further, the peak occurs weekdays only and spans less than 2 hours – outside of this period, given staff is the major generator of traffic, the parking demand significantly drops. It is very unlikely there will be any impact on street parking and hence, the demand for on street parking generated by the proposal does not warrant a local resident parking scheme.</p> <p>Comment: Council's Traffic Engineer has reviewed the proposal with submitted traffic analysis and raises no objection to approval, subject to conditions of consent.</p>
	Will place additional demand on street parking which is already scarce	Barber & Doolan Edmonds & Garcia Hurley	5 Barney Street 3/13 – 15 Millar Street 1 Mary Street	
	That the 'retail' outlets will generate	Edmonds & Garcia Caccavo	3/13 – 15 Millar Street, Drummoyne 46 Millar Street,	<p>Applicant's response: These facilities are not for use by the general public and would only be accessible to residents and their visitors. As such there would not be any</p>

Issue category	Summary of concern raised (refer to submission for full detail)	Submission author	Address in Drummoyne	Applicants Response
	additional traffic	Gacitua Barisic	Drummoyne 1 Barney Street, Drummoyne 4 Barney Street, Drummoyne	<p><i>additional traffic generation associated with these facilities. Providing such facilities on site reduces need for residents to leave site and hence should actually reduce traffic movements.</i></p> <p>Comment: The use in question is not defined as 'retail'. The provision of these facilities is ancillary to the residential accommodation. It is also agreed that traffic movement may also be reduced as a result</p>
S94 Contributions	Seeks use of S94 contributions and/or voluntary arrangement for local traffic study	McDermott	58 Millar Street, Drummoyne	<p>Applicant's response: The proposed development will not give rise to any adverse impacts on local road network performance as demonstrated in the Traffic Assessment which accompanied the DA.</p> <p>Comment: The proposal is not subject to s94 Contributions</p>
Height, FSR and built form	That the proposal is too big, and the proposed variation to the SEPP development standards	Barisic Brown Cordaro Caccavo Edmonds & Garcia Gacitua McDermott Spencer Sung	4 Barney Street 36 Janet Street No address provided 46 Millar Street 3/13 – 15 Millar Street 1 Barney Street 58 Millar Street 2 Barney Street 12 Richards Avenue,	<p>Applicant's response: The proposal is similar in scale to the existing built form on the site. The roof is no higher than the existing highest ridge, and all setbacks (with the exception of the northern portion of Millar Street) have been maintained or increased. The development does not cause any significant impact on immediate neighbours, in particular no detrimental impact on solar access to neighbours as compared to the existing built form on the site and hence strict compliance with the standards for height and floor space is unnecessary, unreasonable and contrary to the objectives of the SEPP Seniors.</p> <p>Comment: The applicant has adequately justified departure from the height and FSR standards under the relevant planning provisions. See section 4 for further information regarding Clause 4.6 Variation Request to clause 40(4) of State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004, SEPP 1 Variation for clause 40(4) of State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004, Clause 4.6 Variation Request to vary clause 4.3 of the Canada Bay Local Environmental Plan 2013 and Clause 4.6 to maximum allowable floor space ratio as prescribed under clause 4.3 of the CBLEP</p>
	Overshadowing will result in increased energy consumption for neighbouring properties.	Edmonds & Garcia	3/13 – 15 Millar Street	<p>Applicant's response: The design of the proposed development has been undertaken with careful attention to minimising the potential overshadowing impacts. The resultant overshadowing is considered to be acceptable, and an improved outcome to what is permitted for a compliant seniors housing scheme under the Seniors Housing SEPP.</p>

Issue category	Summary of concern raised (refer to submission for full detail)	Submission author	Address in Drummoyne	Applicants Response
				Comment: The submitted shadow diagrams and analysis and proposed building heights and setbacks indicate that the proposal will be consistent regarding overshadowing impacts as the existing development and in some cases an improvement
	Will set a precedent for other development	Brown	36 Janet Street	<p>Applicant's response: The proposal has been specifically designed as a specialist Residential Aged Care facility which provides the most advanced care and built environment for people living with acute care needs, including dementia. The objective is to provide a care service and accommodation model in which the residents can live as normal as life as possible without the need to leave the site. The design is founded in international-best-practice models of enabling environments which improve the quality of life for people living with dementia. The provision of an enabling environment, which is entirely dementia capable, and the inclusion of a new form of Aged Care accommodation in the form of 'couples care' significantly increases the spatial requirements for the development. In comparison to a standard High-Care facility in Australia which typically provides 50m² GFA per resident, Scalabrini Drummoyne would provide 76m² per resident. This is more than 50% more than the standard high-care facility, and directly contributes to the exceedance of the applicable FSR for the site. For this reason, we do not expect that the proposed development would set a precedent for other sites.</p> <p>Comment: This is a unique site that provides the opportunity to deliver a quality aged care facility to the community. There are no other development sites in the area that would provide a similar context to argue precedent</p>
	Will result in overshadowing	Brown	36 Janet Street	<p>Applicant's response: The application includes shadow diagrams which indicate there is no significant adverse impact on solar access to neighbouring properties at the worst case scenario of the winter solstice.</p> <p>Comment: The submitted shadow diagrams and analysis and proposed building heights and setbacks indicate that the proposal will be consistent regarding overshadowing impacts as the existing development and in some cases an improvement</p>
	Setbacks to Mary Street are not adequate and should be increased	Caccavo Brown Barisic	46 Millar Street 36 Janet Street 4 Barney Street	Applicant's response: The setbacks are considered to provide an appropriate response to the streetscape, particularly in light of the prevailing street setback lines on adjoining properties in the immediate vicinity of this area.

Issue category	Summary of concern raised (refer to submission for full detail)	Submission author	Address in Drummoyne	Applicants Response
				<p>Comment: Proposed setbacks are consistent with existing setbacks and increased further at the rear. The materials and colours used and the setting back of the upper level results in a building with improved visual quality as viewed from the street.</p>
	Long building façade	Caccavo Barisic	46 Millar Street 4 Barney Street	<p>Applicant's response: <i>The proposed development substantially increases the amount of building articulation compared to the existing development of the site. The internal plaza is a communal space, not a public space, and as such is located to give residents privacy. Given the proposed use as an aged care facility specialising in dementia care, 'externalising' communal areas to the street is not considered to be appropriate from an operational or resident amenity perspective.</i></p> <p>Comment: The proposal includes increased building articulation and colours and materials above that of the existing building and is considered an improvement. Proposed building is consistent with existing footprints. Additional articulation to the new facades exceed the original non-descript facades. Privacy and security is provided to the residents by containing recreational use predominantly within the internal open spaces whilst the perimeter open spaces visible to the street are largely maintained and provided with new landscape features along with the retention of some of the significant trees, as discussed above.</p>

Issue category	Summary of concern raised (refer to submission for full detail)	Submission author	Address in Drummoynes	Applicants Response
Noise	The operations will generate noise	Gacitua Rice	1 Barney Street 3 Barney Street	<p>Applicant's response: The proposal is for permanent residential accommodation for 157 seniors (not including Nun's accommodation) who require support and acute care services. It is envisaged that at least 80% of the residents will have some diagnosis of dementia, and at least 50% will have significant cognitive impairment and an associated heightened sensitivity to external stimuli such as noise. As a result, the proposal includes passive and active measures to minimise noise emissions over and above compliance with relevant Australian Standards. This will benefit the residents within the development as well as those neighbouring the site.</p> <p>Comment: The proposed use is not expected to generate any more noise than of previous secondary and tertiary educational use where previous school would have accommodated up to approximately 1200 year 7 to 12 students. The proposed use is expected to result in far less noise generation. Further, relevant noise generating sources have been addressed in the submitted acoustic report. The proposal is supported with conditions of consent</p>
	Mechanical noise impacts	Caccavo Gacitua Rice	46 Millar Street 1 Barney Street 3 Barney Street	<p>Applicant's response: A detailed mechanical noise assessment will be carried out as part of the detailed design stage of the project to determine suitable treatments to minimise noise emissions from all plant and ensuite exhausts. Typical treatments that will be considered will likely include silencers and internal lined ductwork.</p> <p>These measures will not only minimise noise emissions to adjoining development to comply with relevant Australian Standards, but more importantly will minimise noise emissions to residents within the development, who can be particularly sensitive to noise.</p> <p>Comment: Relevant noise generating sources have been addressed in the submitted acoustic report. The proposal is supported with conditions of consent</p>
	Construction noise impacts	Spencer	2 Barney Street	<p>Applicant's response: Construction noise impacts will be managed through the preparation of a detailed Construction Management Plan prior to the commencement of works, compliance with the relevant regulatory standards and the carrying out of works only in accordance with Council's standard construction hours.</p> <p>Comment: This is a requirement as conditioned</p>

Issue category	Summary of concern raised (refer to submission for full detail)	Submission author	Address in Drummoynes	Applicants Response
Trees	Concerns proposed tree removal will detrimentally impact the character of the neighbourhood	Gacitua McDermott Rice	1 Barney Street 58 Millar Street 3 Barney Street	<p>Applicant's response: There is no endemic landscaping on the site. The vast majority of trees that are proposed to be removed have been assessed as having low to very low retention value. Whilst every effort has been made to accommodate the retention of trees assessed as high retention value are proposed to be retained and protected. Whilst the proposed development endeavours to retain the most significant trees within the site, it is not possible to do so in all instances given the changes in levels and in-ground infrastructure works required. New landscaping will be provided including a number of mature specimens (5-6m planted height) incorporated in the street setbacks to hasten the vegetation of these frontages. The provision of a coordinated landscaping scheme will make a significant positive contribution to the relationship between the street and the proposed development and provide a more suitable landscape for the 157 proposed senior residents.</p> <p>Comment: The applicant's landscape proposal and tree protection measures are considered satisfactory and include the preservation and protection of significant trees and the inclusion of advanced new species to maintain the landscape quality of the area</p>
	Concerns the tree removal will detrimentally impact on privacy	Gacitua Spencer	1 Barney Street 2 Barney Street	<p>Applicant's response: Whilst the proposed development endeavours to retain the most significant trees within the site, it is not possible to do so in all instances given the changes in levels and in-ground infrastructure works required. New landscaping will be provided including a number of mature specimens (5-6m planted height) incorporated in the street setbacks to hasten the vegetation of these frontages. Oblique views from the proposed resident bedroom windows located further along Mary Street are not considered to significantly impact on privacy of more distant dwellings.</p> <p>Comment: As above. Privacy and security is provided to the residents by containing recreational use predominantly within the internal open spaces whilst the perimeter open spaces visible to the street are largely maintained and provided with new landscape features along with the retention of some of the significant trees</p>

Issue category	Summary of concern raised (refer to submission for full detail)	Submission author	Address in Drummoine	Applicants Response
Waste management provisions	That the waste dock will have a visual impact on nearby residential dwellings.	Caccavo O'Neill	46 Millar Street 64 Plunkett Street	<p>Applicant's response: The waste loading bay comprises a hardstand with pathway connecting to the internal waste room. All bins are stored out of sight in the internal waste rooms. The waste loading dock will be closed by a sliding gate that will restrict access to the dock and provide full visual screening for dwellings opposite across the road.</p> <p>Comment: The waste dock will be screened behind a sliding gate</p>
	That the waste dock will have an acoustic impact.	Caccavo	46 Millar Street	<p>Applicant's response: Based on the conclusions of the waste report provided with the DA, general waste collection from the site would occur only three times per week, with a recycling collection once per week. As this collection will be undertaken by a private contractor, collection times can be scheduled to minimise amenity impacts on nearby dwellings. The bay is located as close as practical to the street to maximise distance, and mitigate acoustic impact on the courtyards in the adjoining Aranda Gardens development. The bay is directly next to the garage of 14/15 Millar Street. A condition of consent requiring, for example, waste collection to occur between 8am and 6pm could be imposed if deemed required.</p> <p>Comment: All waste collection will occur well within the site and behind a closed sliding gate. Maximum truck/vehicular movement at this dock is limited to 6 per week and collection times are also limited by condition</p>
	That the waste dock will create an odour impact.	Gacitua	1 Barney Street	<p>Applicant's response: All waste is to be stored in the internal waste rooms, which will be designed with ventilation and cleaning facilities to ensure that odour does not affect the residents within the development as well as those neighbouring the site.</p> <p>Comment: All waste bins are conditioned to be stored and enclosed within the building and not visible to the street</p>
	No waste management plan provided	Edmonds & Garcia	3/13 – 15 Millar Street	<p>Applicant's response: A waste management plan has been submitted with the application</p> <p>Comment: The applicant has provided sufficient waste collection information for Council to assess. The proposal is supported with conditions</p>
	That waste collection should be internalised			<p>Applicant's response: As noted above, it is considered that the location of the waste collection dock is appropriate given the infrequent use of this space, the readily available interface treatments including additional screening landscaping, management of the hours or waste collection etc. The location of the proposed bay is the most distant point on the site's street</p>

Issue category	Summary of concern raised (refer to submission for full detail)	Submission author	Address in Drummoyne	Applicants Response
				<p>frontages from local intersections, allowing for the safe ingress and egress from the site for larger waste vehicles in a manner that avoids conflicts with existing vehicle movements, As such, it is considered that the relocation of the waste collection bay is unnecessary and would result in a poorer outcome. Internalising the waste dock within the basement would require a longer basement ramp structure (extending closer to adjoining property boundaries) and deeper overall excavation of at least part of the basement in order to provide for the required clearance heights, resulting in increased costs, additional vehicle movements to remove fill during the excavation phase and additional ground stabilisation costs.</p> <p>Comment: The applicant has adequately justified the position of the waste collection bay</p>
Substation	Location	O'Neill	64 Plunkett Street	<p>Applicant's response: The energy provider has required and approved the location of the substation on site, as indicated on the plans, in accordance with their requirements. The setback from the common property boundary and the visual treatment of this substation (hedge and picket fence) has been the result of direct consultation with the immediately affected neighbour. Due to the requirements of the provider, the substation is unable to be located in the basement and must be directly accessed from street level for servicing and maintenance.</p> <p>Comment: Noted. No further issue</p>
	Request for visual screening of the substation.			<p>Applicant's response: The DA provides for the visual screening of the substation with a planted hedge and picket fence.</p> <p>Comment: Noted. No further issue</p>
	Safety concerns & noise impact			<p>Applicant's response: The substation is a standard utility provider installation and does not pose any threat to resident safety. The substation module includes built-in noise mitigation features, however, due to authority access requirements it is not possible to provide an additional enclosure for this unit.</p> <p>Comment: Noted. No further issue</p>
Security	Restriction on unauthorised access to interior of site			<p>Applicant's response: A new security gate is proposed between the existing hall and the boundary fence.</p> <p>Comment: Noted. No further issue</p>

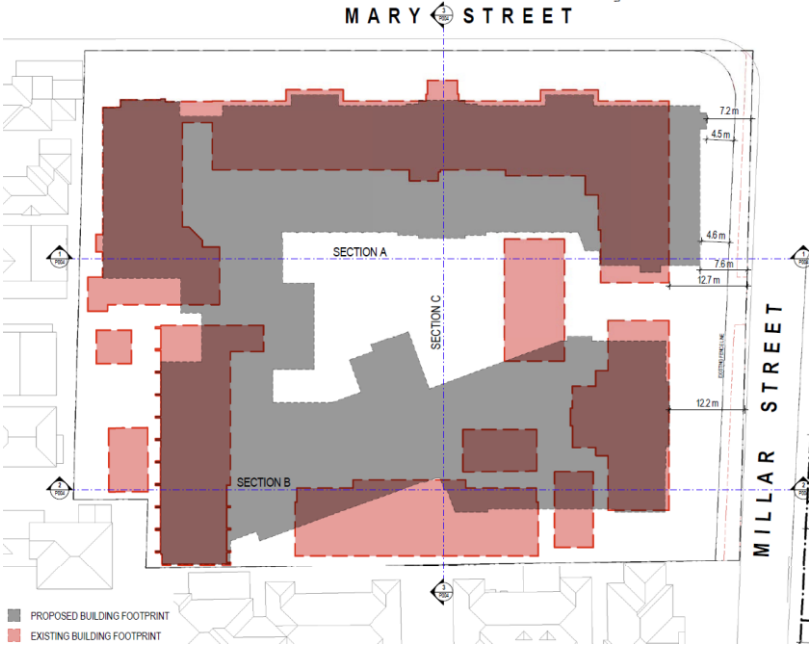
Issue category	Summary of concern raised (refer to submission for full detail)	Submission author	Address in Drummoine	Applicants Response
	Height of fence to common boundary			<p>Applicant's response: The proposal includes a 1.8m lapped and capped painted timber fence to the internal boundaries. We have no objection to an increased fence height for the extent of the common boundary to No. 3 Mary Street, subject to further resolution of the design with the owner of this property.</p> <p>Comment: Dividing fence issue between adjoining land owners. As agreed with neighbour subject to consent</p>
	Location of door to basement			<p>Applicant's response: The door is located perpendicular to Millar Street and below street level. Whilst we do not expect acoustic impacts, we would expect the door be required to meet relevant standards in relation to noise attenuation.</p> <p>Comment: Noted. No further issue</p>
Property Values	The proposal will detrimentally impact on property value of neighbouring residences.			<p>Applicant's response: Perceived impacts on property values are not a relevant planning consideration in the assessment of a Development Application. As demonstrated in the SEE and accompanying documentation, the proposed development will not result in any significant impacts that would impact upon the amenity of neighbouring properties.</p> <p>Comment: Not a valid planning consideration</p>
Privacy	Height will create a privacy impact by over looking	Edmonds & Garcia Rice Spencer Gacitua Cordaro Barisic Brown	3/13 – 15 Millar Street 3 Barney Street 2 Barney Street 1 Barney Street No address provided 4 Barney Street 36 Janet Street	<p>Applicant's response: The height of the proposed development does not give rise to potential privacy impacts on adjoining dwellings, as there are adequate separation distances between habitable areas of the proposed development and adjoining properties. In addition, a number of design measures (including the use of balcony edge planter boxes, the restriction of general access to the closest balconies and fixed screening devices) have been incorporated into the design in order to further reduce direct lines of sight. Detailed diagrams illustrating the potential visual relationships between properties have been provided with the Development Application that demonstrate that there will be no significant adverse impacts.</p> <p>Comment: The applicant has adequately demonstrated that the design includes measures to minimise any privacy issues</p>
	Privacy to backyards/bedrooms across Mary Street is compromised	Gacitua	1 Barney Street	<p>Applicant's response: Immediately across the street from No.1 Barney street's backyard is the existing school hall which is proposed to be retained. No windows which might impact on privacy are proposed. Oblique views from the proposed resident bedroom windows located further along Mary Street are not considered to significantly impact on privacy.</p> <p>Comment: The applicant has adequately demonstrated that the design includes</p>

Issue category	Summary of concern raised (refer to submission for full detail)	Submission author	Address in Drummoyne	Applicants Response
				measures to minimise any privacy issues
Aged Care precedent	The proposal is not consistent with other local aged care built form	Caccavo Barisic	46 Millar Street 4 Barney Street	<p>Applicant's response: Scalabrini Drummoyne presents a unique opportunity to provide a new bench mark in Residential accommodation for Seniors whom require care services. It will provide 157 local seniors with the opportunity to maintain, and more likely improve, their quality of life as they age. Seniors living can take many forms. The proposal is for a specialist high care residential aged care facility which is designed to provide the most enabling environment for people with acute care needs, including dementia. A good built environment is one that creates opportunities for residents to succeed and use their retained abilities by maximising ease in finding their way, familiarity and their feeling of freedom and control whilst reducing opportunities for failure and feeling of imprisonment and/or alienation. Traditional aged care has responded to safety by locking the door. A resident finding the front door locked must deal with failure, the feeling of imprisonment and confusion. At Scalabrini Drummoyne, the proposed design will provide residents the freedom to leave their 'house' and go 'out' (ie. to the onsite Piazza.) The scale of the piazza and avoidance of perceived external doors secures the site in an unobtrusive way, 'designing out' frustration and confusion.</p> <p>Comment: This is a unique site that provides the opportunity to deliver a quality aged care facility to the community. There are no other development sites comparable in the area that would provide a similar context to argue precedent</p>
Stormwater Detention	Location may cause overflow into adjacent property			<p>Applicant's response: The stormwater detention is in accordance with Council policy and includes provision for overflow direct to the public roadway in the event of system failure, as detailed in the letter from Northrop Consulting Engineers provided with the Development Application.</p> <p>Comment: The application has been assessed by Council's Engineer with recommended conditions attached</p>
Contamination	That any hazardous materials be removed in a manner which does not compromise safety of neighbours	Gacitua	1 Barney Street	<p>Applicant's response: Any identified hazardous materials will be removed in accordance with legislative controls and requirements.</p> <p>Comment: The application has been reviewed by Council's Environmental Officer with recommended conditions attached</p>
Other Issues	Reason for lodgement of new DA as opposed to s96 questioned.	Caccavo Barisic	46 Millar Street 4 Barney Street	<p>Applicant's response: The EP&A Act leaves it open to an applicant to determine whether to seek to modify an existing Development Application (if present) under section 96, or to lodge a new Development Application. In this instance, the applicant has elected to submit a new Development Application.</p>

Issue category	Summary of concern raised (refer to submission for full detail)	Submission author	Address in Drummoyne	Applicants Response
				<u>Comment:</u> Noted. No further issue
	Lack of consultation	Caccavo Barisic	46 Millar Street 4 Barney Street	<p><i>Applicant's response:</i> Scalabrini Villages has sought to engage with neighbours in a pro-active and genuine manner in relation to the proposed redevelopment of the site, well in excess of statutory requirements.</p> <p><u>Comment:</u> Noted. No further issue</p>
	Question accuracy of photomontages			<p><i>Applicant's response:</i> The photomontages are provided for the purpose of providing an indicative portrayal of the architecture and materials only. The montages have been prepared by an experienced consultant and are appropriate for their purpose, and have been provided with accompanying information that sets out the original imagery and guides that illustrate the accuracy of the presented relationship between existing site conditions and the representations of the proposed development.</p> <p><u>Comment:</u> Noted. No further issue</p>
	Construction Management Plan is not sufficiently detailed	Cacavo Barisic	46 Millar Street 4 Barney Street	<p><i>Applicant's response:</i> None</p> <p><u>Comment:</u> A detailed CMP is a requirement of consent</p>
	Requests establishment of a community reference group for the construction phase, in a similar way that the City of Sydney conditions large projects.	Caccavo	46 Millar Street	<p><i>Applicant's response:</i> Scalabrini has, and will continue to, inform and consult with neighbours throughout the construction process. However, it is not considered Council's standard construction notification and site information conditions are adequate. Neighbours will be provided with direct contact details for Scalabrini (which have previously been provided to all neighbours) and the construction site manager.</p> <p><u>Comment:</u> Noted. No further issue</p>
	Raises concern regarding the potential environmental impacts of the stormwater pond	Brown	36 Janet Street, Drummoyne	<p><i>Applicant's response:</i> The proposed on-site stormwater detention area is not a permanent water basin.</p> <p><u>Comment:</u> The application has been assessed by Council's Engineer with recommended conditions attached</p>
Support the proposal		Killalea Petri Hurley	1 Mary Street 46b Janet Street 1 Mary Street	<p><i>Applicant's response:</i> Noted.</p> <p><u>Comment:</u> Noted</p>
Additional information	No documents tendered to proposed to Child Care Facility. No documents tendered on the proposed	Gacitua	1 Barney Street	<p><i>Applicant's response:</i> There is no child care proposed on the site. Services provided on the site (hairdresser etc.) are for resident use and are not open to the general public.</p> <p><u>Comment:</u> Noted</p>

Issue category	Summary of concern raised (refer to submission for full detail)	Submission author	Address in Drummoyne	Applicants Response
	merchants that will be set up within the facility.			
	Ongoing Operations Plan should be required as a condition of consent	Caccavo Barisic	46 Millar Street, Drummoyne 4 Barney Street, Drummoyne	<p>Applicant's response: The proposed development is for seniors housing, which is a well understood and well defined land use type which does not give rise to any significant local environmental impacts by virtue of its operation. As such, this is not considered to be necessary as the consent will sufficiently govern the operations of the proposed development.</p> <p>Comment: As conditioned, final Operational Plan of Management is to be formulated and submitted to Council for approval prior to the issue of a Construction Certificate</p>
	Requests establishment of a community reference group for the construction and ongoing operational phase, in a similar way that the City of Sydney conditions large projects.	Caccavo Rice Barisic	46 Millar Street 3 Barney Street 4 Barney Street	<p>Applicant's response: Scalabrini has, and will continue to, inform and consult with neighbours throughout the construction process. However, it is not considered Council's standard construction notification and site information conditions are adequate. Neighbours will be provided with direct contact details for Scalabrini (which have previously been provided to all neighbours) and the construction site manager. Similarly, as noted above, it is not considered that the ongoing operational impacts are able to be adequately governed by the consent without this reference group.</p> <p>Comment: Noted. No, further issue</p>

Urbis Submission		
Lack of Contextual Site Response	Retention of established setbacks and landscaping is important in achieving an outcome that contributes to the quality and identify of the area.	<p>Applicant's response: The proposed development has endeavoured to respond to the existing built form on the site. As illustrated in the diagram below, whilst there is some reduction in the setback to Millar Street near the corner of Mary Street, overall the proposal generally sits behind the forward building line of existing buildings. Notably, there is a widening in the gap between buildings toward Mary Street and substantive increases to the setbacks to common property boundaries. A detailed landscape plan has been provided with the Development Application that includes well-established (5-6m) tree specimens that will be included in the scheme to provide a healthy landscaping zone around the site prior to occupation and continue to grow and increase the vegetation cover into the future.</p>

	
<p>The proposal fails to demonstrate that the development will be compatible in scale with the surrounding streetscape, as the width of buildings fronting the streets is different from surrounding development, involves vegetation removal and has a flat-roof approach that is inconsistent with prevailing pitch roofed character.</p>	<p>Applicant's response: <i>The existing development of the site has been present for some 70 years. This submission previously noted the institutional character of the site, which the proposed development responds to in terms of building length and scale.</i></p>
<p>The design requires greater recessiveness in the built form. "An example good practice in terms of assimilation of built form scale into a low density streetscape is the Minnamurra Retirement Village".</p>	<p>Applicant's response: <i>The example referenced by this submission is located on a battle-axe block with a total street frontage of about 6 metres (the Iona facility is separately occupied and operated, and provides only one common property boundary). This provides no useful comparison to the Scalabrini site, which has two street frontages totalling some 200 metres and is twice the area of the Minnamurra site. It is noted, however, that the Minnamurra facility is a predominately four storey development with boundary setbacks ranging between approximately 3 and 7 metres, relies on established vegetation located on neighbouring properties for visual screening, and is on the whole substantially more dense in its relationship with surrounding properties than the proposed Scalabrini development.</i></p>
<p>The setback to the south-east corner should be increased by removal of the existing wall.</p>	<p>Applicant's response: <i>The retention of this wall is the result of a request by the directly affected land owner, is considered to be appropriate, results in no additional impacts on the surrounding properties and mitigates potential privacy impacts compared to an alternate activated façade with an increased setback.</i></p>
<p>The scope of proposed tree removal is too great and impacts on the established street character. Submission raises concern regarding</p>	<p>Applicant's response: <i>The retention of the most significant existing trees on the site has been prioritised in the proposed development, whilst the submitted landscaping plans will see the planting of a number of mature specimens (5-6m planted height) along the street frontages in order to establish a strong landscaped feel from the completion of construction. There is no endemic vegetation present on the site at present, and it is considered that the proposed landscaping is an appropriate response to the land use and architecture, and will make a positive contribution to the</i></p>

	the nature and suitability of replacement landscape plantings.	<i>streetscape.</i>
Proposed variation to Seniors Housing SEPP building height development standard	The Clause 4.6 variation request does not sufficiently demonstrate how the proposed development is compatible with the local area.	Applicant's response: <i>The clause 4.6 variation request addresses all of the relevant statutory provisions, and is considered to be strongly supported through an assessment of the appropriateness of the development in light of the applicable legal tests and an objective-based assessment of the minimal impacts of additional height on this site.</i>
Mis-description, inaccuracies and errors with application	The description of the development as involving 'partial demolition' misrepresents the extent of new development being sought.	Applicant's response: <i>The description of the development as "partial demolition and construction of a new building...." is entirely accurate. The proposal does retain parts of the existing building, and as such it would be misleading to represent this simply as 'demolition' or 'full demolition' as is implied by this submission. Moreover, the description also emphasises that the development involves construction of a new building. This is consistent with the nature of the proposal.</i>
	Raises concerns regarding the accuracy of the photomontages and states that these should be prepared in accordance with LEC practice guidelines.	Applicant's response: <i>The NSW Land and Environment Court's Photomontage Policy is the requirement for expert witness documentation. Photomontages are generally only required by the court where matter such as view loss and view sharing are to be considered and a near-perfect degree of accuracy is required. View loss is not an issue in this application, and the photomontages are instead provided for the purpose of providing an indicative portrayal of the architecture and materials only. The montages have been prepared by an experienced consultant and are appropriate for their purpose, and have been provided with accompanying information that sets out the original imagery and guides that illustrate the accuracy of the presented relationship between existing site conditions and the representations of the proposed development.</i>
Technical issues	The submission states: "Given the traffic impacts this development will have on the local community, the applicant should be required to work with Canada Bay Council to ensure that local traffic management and operational issues associated with a 24/7 operation addressed on a short and long term basis."	Applicant's response: <i>The submission claims that the development will have traffic impacts on the local community, however, there is no technical justification to support this claim. The proposed development has been the subject of expert traffic assessment, which indicates that the development does not give rise to any intensification in traffic movements compared to the previous educational use. The traffic assessment submitted with the application found that the proposal would not give rise to any adverse impacts on the local road network that would give rise to a need to upgrade existing intersections etc.</i>
	The Mary Street drop-off area has the potential to result in safety impacts, headlight glare and unsafe vehicular movements.	Applicant's response: <i>The proposed drop-off facility will provide a safe off-street facility for the set-down and pick up of aged persons to the facility, reducing the demand for on-street parking and has been the subject of rigorous traffic design and assessment informed by previous consultation with Council. This access point will be subject to final approval by Council's Traffic Committee to ensure that it fully addresses Council's traffic and safety requirements.</i>
	The proposed waste collection bay is considered unacceptable from a visual amenity, odour and acoustic perspective, particularly for the	Applicant's response: <i>The proposed waste collection bay is considered to be the sited at the most suitable location within the site based on a range of design criteria and requirements. It is considered that the treatment measures for this area, which include an access control gate, turning bay, soft landscaping and an acoustic fence to the neighbouring property all combine to result in an acceptable result. As noted in the Statement of Environmental Effects and waste report, based on the conclusions of the waste report provided with the DA, general waste collection from the site would occur three times per week, with a recycling collection once per week. Waste collection will</i>

dwelling located immediately opposite the site.	<i>only occur between 8am and 6pm. All waste will be stored in a mechanically ventilated room within the building, and waste will be transported to the collection bay only upon the arrival of the vehicle. On the whole, this is considered to be a far superior outcome than is achieved for comparable Council requirements for residential development typologies.</i>
Raises concerns regarding the detail and level of assessment of construction activities.	Applicant's response: <i>As noted in the SEE, a detailed Construction Management Plan will be prepared prior to the commencement of works which will detail management and mitigation measures to ensure that demolition and construction impacts do not result in adverse amenity impacts in the locality. Along with standard Council conditions, this will ensure that construction impacts are managed satisfactorily to minimise disruption to the local community.</i>
Raises concerns regarding the potential noise impacts and the absence of a detailed mechanical noise assessment for the site.	Applicant's response: <i>The Development Application was accompanied by a Noise Impact Assessment prepared by Acoustic Logic which addresses the relevant statutory and policy requirements for a noise assessment. It makes appropriate assumptions regarding the nature and quantum of mechanical plant equipment that would be utilised in this type of development, and concludes that standard construction and noise mitigation techniques can be employed in detailed design to ensure that noise criteria are achieved.</i>

Comment: It is considered that the applicant has adequately addressed issues raised by surrounding residents and the submission prepared by Urbis. Any outstanding issues have been dealt with by recommended conditions of consent.

Environmental impacts generally have been discussed below in section 6 and it is considered that the proposal's departure from statutory planning controls relating to building height and floor space ratio have been adequately justified under the relevant planning provisions discussed in section 4 above.

5.2 Internal Referrals

5.2.1 Engineering – Stormwater Management/Drainage

Council's Stormwater Engineers reviewed the application and raised no objections to the stormwater management concept subject to conditions which have been incorporated in the recommended conditions at Appendix A.

5.2.2 Engineering – Traffic & Parking

Council's Traffic Engineers reviewed the proposal and raised no objection to the information in the submitted Traffic Report. The proposed Drop-off/ Pick-up provision in Mary Street is also supported by Council's Traffic Engineer and the Traffic Committee with relevant conditions of consent included.

A number of standard conditions of consent were also provided and are incorporated at Appendix A.

5.2.3 Landscape

Council's Landscape Architect reviewed the application and raised no objections to approval of the development subject to including the submitted arborist report with the list of documents approved in condition No. 1 of the consent. Also recommended as conditions of consent are Council's standard conditions relating to landscape management strategy and on-slab landscaping.

5.2.4 Environmental – Health

Council's Environmental Health Department reviewed the proposal and provided a number of conditions which have been incorporated in the recommended conditions at Appendix A.

5.2.5 Environmental – Waste

Council's Waste Collection Officer has reviewed and supported the submitted Operational Waste Management Plan which is Appendix M of the approved Statement of Environmental Effects listed in Condition No. 1. Additional waste information listed in Condition No. 1 also forms part of the conditions of consent that limit waste truck/vehicular movements to the Millar Street waste collection dock and includes operational restrictions.

6. ASSESSMENT OF ENVIRONMENTAL IMPACTS

The following is an assessment of the proposal against heads of consideration under Section 79C of the Environmental Planning and Assessment Act 1979 - predominantly Section 79C(b) Likely Impacts of the Development. Issues discussed are limited as many other considerations have been previously addressed in section 3 of this report in response to provisions of environmental planning instruments.

6.1 Overshadowing

Council's City of Canada Bay Development Control Plan states the following controls in relation to overshadowing and solar access. The objective of these controls is to maximise solar access to living areas and private open space in order to improve residential amenity and to minimise the amount of overshadowing of neighbouring developments and outdoor spaces to maintain their amenity.

5.2.3 (C1) New buildings and additions are sited and designed to maximise direct sunlight to north-facing living areas and outdoor recreation areas.

5.2.3 (C2) Direct sunlight to north facing windows of living areas and private open space of adjacent dwellings should not be reduced to less than 3 hours between 9.00am and 3.00pm on 21 June.

Comment: The proposal does not comply with the maximum allowable building height and floor space ratio provisions of the LEP and the Seniors SEPP however it has designed the facility in context with existing development on the site and with a view to minimising impacts of additional overshadowing.

The siting of the new buildings remains consistent with the existing perimeter building footprint and the rear south and east wings includes increased setbacks from the boundary adjoining residential property and the building footprint is angled so (with upper floors setback further) that it minimises shadows cast toward the adjoining residential property to the south-east. Refer to the shadow diagrams and detailed solar studies included in Appendix C of the Statement of Environmental Effects prepared by Bickerton Masters Architects.

The applicant has carried out extensive analysis with regard to overshadowing as demonstrated in the submitted documentation. Analysis also includes a comparison between that proposed and what a fully compliant development under the Seniors SEPP would result in. The analysis indicates that as a result of the increased setbacks proposed at the rear wing, there are increased levels of solar access provided to the surrounding residential dwellings. The analysis also indicates that the proposal is a better outcome than that of a Seniors Housing SEPP compliant scheme.

Given consideration of the information indicated in the submitted shadow diagrams and solar studies, the proposal is supported with regard to overshadowing impacts on surrounding residential properties. The information demonstrates that any additional overshadowing impact is relatively consistent with the existing situation and in some circumstances an improvement.

6.2 Visual & Acoustic Privacy

The proposal includes various balcony areas, some which face the internal courtyard and the majority around the outside perimeter of the building structures. The majority of the balcony areas that are located on Level 3 have an outlook over Mary Street and are accessed predominantly off groups of three care rooms. The depth and compartmentalisation of these balcony areas suggest that they have been designed primarily for the purposes of light and ventilation, rather than for recreational use.

Other individual balconies are scattered throughout however that proposal includes substantial balcony areas or raised terrace areas along the rear of the development, particularly at Levels 2 & 3. Access to these areas is directly off Common Area locations and of the size to be capable of accommodating large groups of people. The plans indicate planter boxes and devices to ensure privacy. The applicant has also included additional detail to indicate the relationship of these structures to adjoining residents and details on privacy devices to ensure privacy.

Generally, window openings and balcony areas facing adjoining neighbours have been protected with the use of privacy screens/fences, hedges screening and planter boxes as indicated in the relevant details of approved drawings included in Condition **DAGCA01** at Appendix A.

The main area of concern with regard to privacy and overlooking being the upper level balcony and terrace areas will be adequately addressed as indicated in the approved privacy detailing and additional condition of consent that clarifies the depth and height of privacy planter boxes.

6.3 View Corridors / View Sharing

There are no apparent views or view corridors likely to be affected by the proposed residential aged care building.

6.4 Traffic Generation, Parking and Loading

The existing site currently has 66 car parking spaces plus unrestricted on-street parking surrounding the site. The proposal seeks to increase this to a total of 75 spaces.

Car Parking Requirements

The City of Canada Bay Development Control Plan (DCP) does not prescribe parking rates for a residential aged care facility.

The proposal looks to parking rates prescribed under the Road & Maritime (formerly RTA) *Guide to Traffic Generating Developments* for aged care (hostels, nursing and convalescent homes These rates are as follows

- 1 space per 10 beds (visitors) +
- 1 space per two employees +
- 1 space per ambulance.

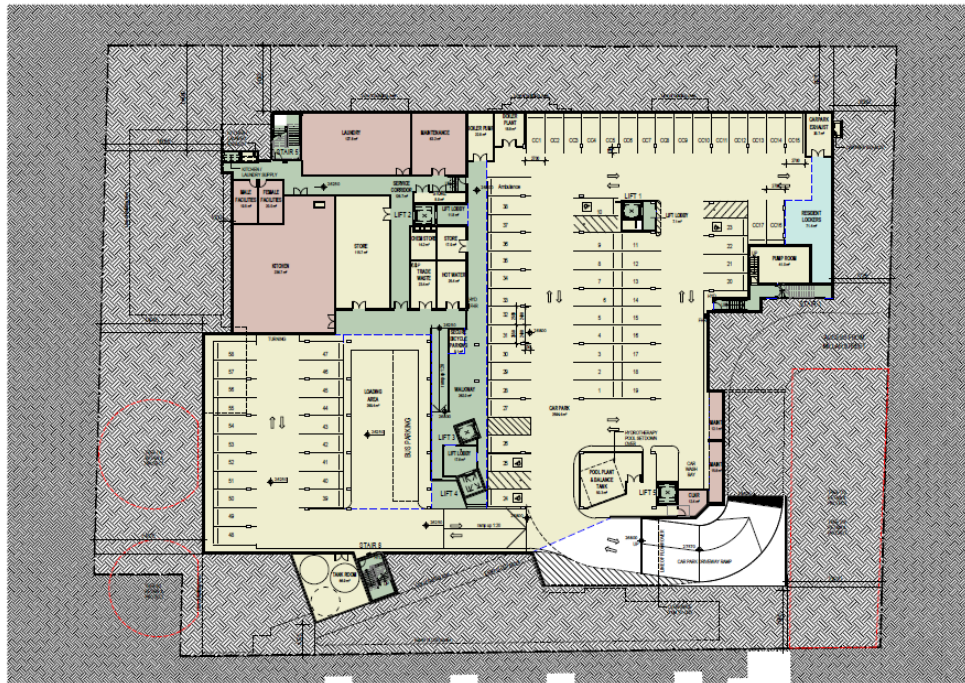
The State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 defines that parking for residents and visitors should be provided at the following rates:

- i. 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and
- ii. 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and
- iii. 1 parking space suitable for an ambulance.

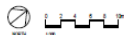
The RTA and SEPP parking rates above indicate consistency.

Use	RMS Rate / proposed rate	Parking Spaces
140 aged care beds	1 space per 10 beds (residents and visitors)	14
60 staff including nuns	at peak 1 space per 2 employees	30
17 Carers	1 space per carer	17
2 Doctors	1 space per doctor	2
6 Volunteers	1 space per 2 volunteers	3
1 Facility vehicle	1 space per vehicle	1
TOTAL		66

See basement parking plan below.



1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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SV Scalabrini Village Drummoyne
5 Mary Street (also known as 17 Millar Street)
Drummoyne

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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Proposed Basement Parking Level

The entry/exit to the Basement level is from Millar Street where the existing driveway crossing for access to the site is currently located. The new driveway and ramp down will allow for vehicles to enter and exit the basement parking and utilities level in a forward direction and through a security roller door. All on-site parking will be contained within the basement level.

A drop-off point is located at the main pedestrian entry to the facility on Mary Street directly opposite the Mary/Barney Street T-section. The proposed drop-off/pick-up point will have vehicular access one way in and one way out via two new single driveway crossings. This facility will allow for quick drop-offs/pick-ups and is likely to reduce traffic activity in Millar Street by not requiring all vehicular access required to the site to enter from that location only.

Waste vehicles will collect on site via access from a new single driveway at the south-eastern corner of the site. The on-site waste collection area will also be provided with a turning bay allowing the vehicle to enter the site and drive into the on-site turning bay in a forward direction, back up to the waste bin collection point and drive out from the site in a forward direction.

The Transport Report (Job No. 232646 – Rev A), prepared by Arup and dated 16 November 2014 was submitted in support of the application and analysed associated traffic and parking impacts.

The report's findings state that the proposal is considered to have a minimal impact on the operation of the local road network for the following reasons:

Traffic movements at the key access points into the site currently operate efficiently with minimal vehicle delays

The maximum forecast increase in peak hour generation of 12 vehicles in the PM peak is a relatively modest increase when distributed over the key access roads into the residential precinct, and considered in the context of existing traffic volumes in the area

There are no proposed changes to the current walking and cycling network

Bus services operated by Sydney Buses on Lyons Road are approximately 250 metres from the site and will provide access for staff and visitors to the site

Key findings of the report include:

The site is located in an existing residential area with on-street parking and good access to public transport networks

Traffic movements into the site operate efficiently with minimal vehicle delays

75 basement car parking spaces are provided to cater for all anticipated site demand on a typical day

For the Multi-Function Space, a small overflow of cars parked on-street could be expected for the largest of events. This is considered acceptable for an occasional event and on-street car parking is available within walking distance for these short occasional events. This level of overflow to on-street car parking is less than what happens for the existing site use

Secure cycle parking is to be provided as a component of the proposed development

The forecast maximum increase in PM peak hour traffic generation of 12 vehicles is a relatively modest increase when distributed over the key access roads into the residential precinct, and considered in the context of existing traffic volumes in the area

The report has been reviewed by Council's Traffic Engineer and recommended conditions of consent have been applied at Appendix A in this report.

6.5 Noise Impact

An Acoustic Report prepared by Acoustic Logic (ref. 20140442.1), dated 27/10/2014 was submitted with the application.

The report includes an external noise intrusion assessment of the proposed development and recommends acoustic treatments to ensure that a reasonable level of amenity is achieved for future occupants. The report also identified potential noise sources generated by the site and determined necessary noise emission goals. Recommendations in this regard are outlined throughout the report.

The report was reviewed by Council's Environmental Officer who also recommended the report's recommendations be adopted as conditions of consent. The report forms part of approved documents listed in Condition **DAGCA01** at Appendix A.

Should future noise complaints or breaches occur, as a precautionary measure, a condition of consent is included to ensure that a suitably qualified acoustic consultant be engaged to assess and recommend measures to mitigate to appropriate standards at the expense of the applicant.

To minimise noise impact during demolition and construction, two standard conditions are to be imposed that restrict the demolition and construction hours from 7.00 am to 5.00 pm. Mondays to Saturdays. Works are not permitted on Sundays and public holidays.

Furthermore, the applicant is required to comply with relevant sections of the Protection of the Environment Operations Act 1997 and Regulations; the NSW Environment Protection Authority Industrial Noise Policy (2000) and the NSW Environment Protection Authority Environmental Noise Control Manual (1994).

6.6 Bulk and Scale and Building Height

The proposed building height does not comply with the provisions of both the Canada Bay LEP 2013 (CBLEP) or that of the Seniors SEPP. The maximum allowable building height under Council's LEP is 8.5m and under the Seniors SEPP it is 8m.

The proposal results in a maximum height of 13.93m (or 4 storeys) resulting in 5.43m above maximum allowable under the LEP and 5.93m above that maximum allowable building height under the Seniors SEPP.

In essence the proposal seeks to develop within the existing building envelope and its perimeter building layout, taking advantage of the unique development potential inherent on the site with regard to the bulk and siting of the existing institutional buildings.

The applicant has lodged clause 4.6 Exemption to Development Standards to seek exemption from the Building height standard prescribed under the CBLEP and the Seniors Housing SEPP. The

applicant has also included a SEPP No.1 Objection to the building height standard in the Seniors Housing SEPP.

It is considered that the applicant's written requests for departure from the standard are well founded and have adequately demonstrated that full compliance in this instance is unnecessary and unreasonable given the context of the existing built environment and a favourable planning outcome. Refer to section 4 above for further details.

6.7 Floor Space Ratio

The proposed floor space ratio (FSR) does not comply with the Canada Bay LEP 2013 (CBLEP).

The proposed development has a site area of 8,989m² and a total gross floor area of 11,999m² which equates to an FSR of 1.33:1 (7,504.5m² or 0.83:1 above the maximum FSR under the LEP.

The proposed floor area is required by the applicant in order to deliver a quality aged care facility that is designed to provide for a dignified and sustainable living environment for the ageing community.

The applicant's design approach seeks to maximise the residential amenity however this means that there will be additional floor area above that required for standard type room accommodation. The applicant seeks to create a sense of community and inclusion for the residents given that the majority of them are likely to be restricted to most of their day to day living within the facility.

The applicant has lodged a clause 4.6 Exemption to Development Standards to seek exemption from the FSR standard prescribed under the CBLEP.

It is considered that the applicant's written request for departure from the standard is well founded and has adequately demonstrated that full compliance in this instance is unnecessary and unreasonable given the context of the existing built environment and a favourable planning outcome. Refer to section 4 for details.

6.8 Setbacks

The setbacks of the proposed development are provided below.

Site Boundary	Building Element	Setback
North-West	Mary Street (building line) – existing building	9m
North-East	Millar Street (northern corner)	7m
South-East	Millar Street (south eastern corner)	12m
South-East	Southern eastern boundary (building line)	8-16m
South-East	Southern eastern boundary (southern corner) – existing building	2.5m
South -West	South western boundary (southern corner) – existing building	13.5
South -West	South-western boundary (hall) – existing building	3-4m

The setbacks indicate that the primary building setbacks along Mary and Miller Street are generally maintained as are existing setbacks along the south-western boundary. The proposal goes further by increasing the setbacks to the south and eastern wing at the rear of the site in response to minimising overshadowing and visual impact.

The proposed setbacks are considered consistent with existing setbacks, and in combination with setting back further of the upper floor levels and privacy measures adopted in the design, it is considered that the new buildings will be sufficiently separated from the street frontages and surrounding residential property so as not to result in unreasonable overshadowing, visual bulk and privacy.

6.9 Streetscape and Urban Character

The applicant has adequately presented the development's merit with regard to streetscape presentation and bulk and scale. Arguments regarding environmental impact draw comparisons between existing and proposed structures on the site, the materials and colours used along street frontages and articulation of building form. The proposal has taken design cues from the existing

institutional buildings and generally maintains the perimeter building footprint configuration and generally works within the existing building envelope from a streetscape perspective. Refer to the Building Footprint Overlay and Building Outline Sections diagrams in section 3.1 above for a visual representation of this.

Although some of the existing building structure will be retained, it has been acknowledged by the applicant and clearly documented in the submission that the proposal will require the majority of existing structure to be demolished in order to create the new basement parking level and to reduce the ground floor level. The reduction in the ground floor level is intended to provide good access throughout the site. The reduction also affords the applicant the required floor area without exceeding the existing building height.

The streetscape presentation is considered to integrate successfully within the street given its street building alignments are generally maintained as is the overall height. Further, the non-institutional façade design is considered an improvement on the existing 1940 institution style building presently on the site. The proposal also seeks to preserve some reference to the original building by maintaining key elements, particularly the Mary Street entrance component. It is noted that then existing flag poles appear on some plans but not others. The original Mary Street entrance and flag poles are considered a key visual component that references the original institution and should therefore be maintained. A condition of consent is recommended to ensure the main entrance structure and flag poles are maintained and preserved with the proposed Mary Street entrance component.

6.10 Intensity of Use

The proposed use is considered comparable to the intensity of the previous educational uses. The nature of the residential aged care facility is not likely to result in excessive noise impacts to surrounding residents and activity around the site is expected to be no greater than previous uses. The 24 hr, seven day a week operation is the main difference to previous educational institutions operating on the site however the nature of the facility is such that it is required for the resident's care and living requirements. The proposal provides sufficient on-site parking.

The applicant has adequately demonstrated that the site can accommodate the proposed development with minimal impacts in terms of overshadowing, traffic, stormwater runoff, contamination, visual and acoustic privacy, and views.

6.11 Social/Economic

The proposal will deliver considerable public benefit in providing a high standard residential aged care facility for the growing ageing population of the City of Canada Bay. Furthermore, it will provide employment opportunities in the local government area.

7. CONCLUSION

Council has assessed the Development Application in accordance with Section 79C(1) of the Environmental Planning & Assessment Act 1979 and all relevant instruments and policies.

The proposal provides for *Partial demolition and construction of a new building for use as a residential aged care facility with accommodation for 161 persons, basement carparking, alterations and additions to existing hall building, tree removal and landscaping, waste facilities, new fencing, signage and associated site infrastructure.*

Considering the bulk, scale, height, siting and materials of the existing institutional buildings on the site, the design of the proposal is considered to provide a reasonable bulk and scale that is not inconsistent with the existing institutional buildings currently standing on the site, finishes and landscape features which will enable it to be effectively integrated into the streetscape and make a positive and sustainable contribution within the context of surrounding development, whilst minimising impacts and maintaining a comparable built environment to that already existing.

The applicant's requests to vary statutory standards relating to building height and floor space ratio are considered well founded and strict compliance in this instance is considered both unnecessary and unreasonable. See section 4 for details.

Further, the proposal will deliver considerable public benefit in providing a quality residential aged care facility for the growing ageing population of the City of Canada Bay.

Accordingly the proposal is recommended for approval subject to conditions of consent.

8. RECOMMENDATION

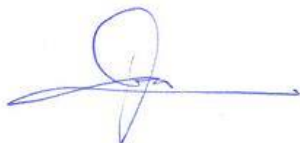
Pursuant to Section 80 of the *Environmental Planning and Assessment Act 1979* (as amended)

- A. THAT the Sydney East Joint Regional Planning Panel (JRPP), assume the concurrence of the Director General of the Department of Planning and invoke the provisions of clause 4.6 of the *Canada Bay Local Environmental Plan 2013* (CBLEP) and resolve that in the circumstance of the case a strict application of the statutory standards contained in clause 4.3 (Height of buildings) and clause 4.4 (Floor space ratio) in the CBLEP and clause 40(4) (Building Height) in the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors Housing SEPP) is unnecessary and unreasonable.
- B. THAT the Sydney East Joint Regional Planning Panel, as determining authority, approve Development Application No. 2015/0332 (JRPP ref. 2015SYE114) for *Partial demolition and construction of a new building for use as a residential aged care facility with accommodation for 161 persons, basement car parking, alterations and additions to existing hall building, tree removal and landscaping, waste facilities, new fencing, signage and associated site infrastructure* subject to site specific conditions set out in Appendix A.

In granting consent the Sydney East Joint Regional Planning Panel has regard to the merit considerations set out in the assessment report pursuant to s.79C of the *Environmental Planning and Assessment Act*.

On consideration of the merits of the case, the Sydney East Joint Regional Planning Panel supports the application based on consistency with the *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004* (Seniors Housing SEPP), the *Canada Bay Local Environmental Plan 2013* (CBLEP), the City of Canada Bay Development Control Plan 2013, including consideration of the applicant's submissions under the provisions of Clause 4.6 of the CBLEP outlining justification for contravention of the development standards in the CBLEP relating to Clause 4.3 Height of buildings, Clause 4.4 Floor space ratio, and development standards in Clause 40(4) in the Seniors Housing SEPP relating to building height, and the Variation to development standard – State Environmental Planning Policy No. 1 as it relates to Variation to Clause 40(4) (Building height) of *State Environmental Planning Policy (Housing for Seniors and People with Disability) 2004*.

Prepared by:



Peter Giaprakas
Senior Statutory Planner
Canada Bay Council

Endorsed by:



Narelle Butler
Manager
Canada Bay Council

Approved by:



Tony McNamara
Director
Canada Bay Council

APPENDIX A – CONDITIONS OF CONSENT

1. **DAGCA01 - Approved Plans and Supporting Documents**

The development shall be carried out substantially in accordance with the approved stamped and signed plans and/or documentation listed below **except where modified by any following condition**. Where the plans relate to alteration or additions only those works shown in colour or highlighted are approved.

<i>Drawing Ref. No.</i>	<i>Name of Plan/Document</i>	<i>Prepared by</i>	<i>Date</i>
13268	Statement of Environmental Effects and all Appendices A to W (inclusive), as revised	JBA Urban Planning Consultants	Nov 2014
966 DA100 (revision 2, 24/08/2015)	Cover Page	Bickerton Masters Architecture	Nov 2014
966 DA101 (revision 1, 12/11/2014)	Site Analysis	Bickerton Masters Architecture	Nov 2014
966 DA102 (revision 2, 20/08/2015)	Existing & Demolition Site Plan	Bickerton Masters Architecture	Nov 2014
966 DA103 (revision 2, 24/08/2015)	Proposed Site Plan - Location	Bickerton Masters Architecture	Nov 2014
966 DA104 (revision 2, 24/08//2015)	Proposed Site Plan	Bickerton Masters Architecture	Nov 2014
966 DA111 (revision 3, 03/02/2015)	Proposed Basement Plan	Bickerton Masters Architecture	Nov 2014
966 DA112 (revision 4, 24/08/2015)	Proposed Ground Floor Plan	Bickerton Masters Architecture	Nov 2014
966 DA113 (revision 2, 24/08/2015)	Proposed Level 1 Plan	Bickerton Masters Architecture	Nov 2014
966 DA114 (revision 2, 1224/08/2015)	Proposed Level 2 Plan	Bickerton Masters Architecture	Nov 2014
966 DA115 (revision 1, 12/11/2014)	Proposed Level 3 Plan	Bickerton Masters Architecture	Nov 2014
966 DA121 (revision 2, 24/08/2015)	Proposed Roof Plan	Bickerton Masters Architecture	Nov 2014
966 DA201 (revision 2, 24/08/2015)	Existing & Proposed Elevations	Bickerton Masters Architecture	Nov 2014
966 DA202 (revision 1, 12/11/2014)	Existing & Proposed Elevations	Bickerton Masters Architecture	Nov 2014
966 DA203 (revision 2,	Proposed Elevations & Sections	Bickerton Masters Architecture	Nov 2014

24/08/2015			
966 DA204 (revision 2, 24/08/2015)	Proposed Elevations – Materials & Finishes	Bickerton Masters Architecture	Nov 2014
966 DA205 (revision 1, 12/11/2014)	Proposed Elevations – Materials & Finishes	Bickerton Masters Architecture	Nov 2014
966 DA206 (revision 1, 12/11/2014)	Proposed Elevations – Materials & Finishes	Bickerton Masters Architecture	Nov 2014
966 DA207 (revision 2, 24/08/2015)	Proposed Elevations – Presentation	Bickerton Masters Architecture	Nov 2014
966 DA208 (revision 1, 12/11/2014)	Proposed Elevations – Presentation	Bickerton Masters Architecture	Nov 2014
966 DA301 (revision 2, 24/08/2015)	Proposed Sections	Bickerton Masters Architecture	Nov 2014
966 DA601 (revision 1, 25/09/2015)	Bin Plan	Bickerton Masters Architecture	Nov 2014
MO/YC 13268	Letter regarding waste collection information	JBA Urban Planning Consultants Pty Ltd	27/10/2015
AIA-01 (Revision C)	Aboricultural Impact Assessment Report including T-02 Tree Protection and Removal Plan	Arterra Consulting Arboriculture	26/08/2015
CJT:3773490	Advice on whether Scalabrini Villages Limited is a Social Housing Provider under the <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i>	Thomson Geer Lawyers	27/10/2015
JBA 13268 (report reviewed and sign off 28/10/2015)	Clause 4.6 Variation to development standard as it relates to Clause 4.3 Height of buildings (CBLEP)	JBA Urban Planning Consultants Pty Ltd	Oct 2015
JBA 13268 (report reviewed and sign off 28/10/2015)	Clause 4.6 Variation to development standard as it relates to clause 4.4 Floor space ratio (CBLEP)	JBA Urban Planning Consultants Pty Ltd	Oct 2015
JBA 13268 (report reviewed and sign off 28/10/2015)	Clause 4.6 Variation to development standard as it relates to clause 40(4) Building height (Seniors Housing SEPP)	JBA Urban Planning Consultants Pty Ltd	Oct 2015
JBA 13268 (report reviewed and sign off 30/08/2015)	<i>State Environmental Planning Policy No. 1 – Variation to development standard as it relates to Clause 40(4) (Building height) of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i>	JBA Urban Planning Consultants Pty Ltd	August 2015

Note 1: Modifications to the approved plans will require the lodgement and consideration by Council of a modification pursuant to Section 96 of the Environmental Planning and Assessment Act.

Note 2: A warning to all Accredited Certifiers. You should always insist on sighting the original Council stamped approved plans/documentation and not rely solely upon the plan reference numbers in this condition. Should the applicant not be able to provide you with original copies, Council will provide you with access to its files so you that may review our original copies of approved documentation.

Note 3: The approved plans and supporting documentation may be subject to conditions imposed under section 80A(1)(g) of the Act modifying or amending the development (refer to conditions of consent which must be satisfied prior to the issue of any Construction Certificate).

(Reason: To confirm and clarify the terms of consent)

2. DAGCA03 - Construction within Boundary

All approved construction including but not limited to footings, walls, roof barges and guttering are to be constructed wholly within the boundaries of the premises.

(Reason: To ensure compliance with approved plans)

3. DAGCA08 - Existing Masonry Entrance and Flag Poles at Mary Street

The existing masonry entrance and flag poles at the Mary Street entrance shall be retained and reinstated as originally configured to form part of the new entrance configuration at this location.

Should structural restrictions prevent this building element from remaining intact during construction, the existing structure shall be carefully deconstructed, protected and then reconstructed in the element's original configuration within the new building.

(Reason: Part of the existing building component to be retained and reference to previous institution)

4. DAGCB01 - Australia Post Guidelines

Mail deliveries are to be in accordance with Australia Post Guidelines, as set out in the Australia Post publication "General Post Guide - September 2007". A copy of this Guide can be obtained from Australia Post's web page at www.auspost.com.au. A copy of the brochure may be obtained from Australia Post. In general, a clearly marked mailbox (or group of mailboxes) shall be provided within 500mm of the footpath alignment.

(Reason: To ensure compliance with mail delivery regulations)

5. DAGCB02 - Compliance with Disability Discrimination Act

This approval does not necessarily protect or guarantee against a possible claim of discrimination (intentional or unintentional) under the *Disability Discrimination Act 1992*, and the applicant/owner is therefore advised to investigate their liability under this Act. **Note: Disability (Access to Premises - Buildings) Standards 2010** - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.

(Reason: To inform of relevant access requirements for persons with a disability)

6. **DAGCB04 - Food Premises - General**

The construction and operation of the food premises shall comply with all applicable legislation/regulation and standards, including:

- The Food Act 2003
- Food Regulation 2004
- Food Standards Australia and New Zealand - Food Standards Code 2001
- Relevant Australian Standards for Design, Construction and Fit out of Food Premises
- Mechanical ventilation - Australian Standard 1668.2-2012

(Reason: Compliance legislation and standards)

7. **DAGCB06 - Height**

The maximum height of the proposed development shall be as indicated in the approved plans listed in Condition No. 1 (**DAGCA01**).

(Reason: Compliance)

8. **DAGCB07 - Lighting**

Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with relevant standards in this regard.

(Reason: Protect amenity of surrounding area)

9. **DAGCB08 - Materials & Finishes Schedule**

The development shall be constructed and finished in materials and colours as indicated in the approved Materials and Finishes plans included in Condition No. 1 (**DAGCA01**).

(Reason: Visual amenity)

10. **DAGCB10 - Site Management**

The following procedures apply:

- (a) Implement the site management plan and measures, and provide for erosion and sediment control according to the SSROC "Do It Right On Site" publication;
- (b) Prevent sediment and/or building materials being carried or washed onto the footway, gutter, road, or into Council's stormwater drainage system;
- (c) Ensure soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways;
- (d) Ensure safe access to and from the site including the road reserve and footpath area, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like;
- (e) Ensure safe loading and unloading of excavation machines, building materials, formwork and the erection of the structures within the site;
- (f) Ensure storage on site of all excavated material, construction materials and waste containers during the construction period (except where otherwise approved); and
- (g) Ensure support of any excavation beside any adjoining property or the road reserve is designed by a Chartered Civil Engineer.

(Reason: Environmental protection)

11. **DAGCB13 - Swimming Pool /Spa**

The approved swimming pool/spa must comply with the *Swimming Pools Act 1992* and relevant standards.

(Reason: Statutory requirement)

12. DAGCB14 - Pool Equipment Operating Hours

Pool filters, pool pumps, and related plant must only operate in accordance with the Protection of the Environment Operations Act 1997.

(Reason: Amenity and Compliance)

13. DAGCB15 - Telecommunications /TV Antennae

No more than one telecommunications/TV antenna will be provided to each dwelling/building.

(Reason: Environmental amenity)

14. DAGCB16 - Tree Preservation

All street trees and trees on private property that are protected under Canada Bay Council's controls, shall be retained except those identified in the Arterra Arboricultural Impact Assessment Report (Rev A) dated 10 November 2014 and Arterra Arboricultural Summary dated 5 March 2015 or where Council's prior written consent has been obtained.

(Reason: Tree preservation)

15. DAGCC01 - Hoarding Requirements

The approved development includes/requires either "A" Class or "B" Class or both type hoarding. The applicable hoarding requirements are as follows:

"A" Class Requirements

An engineer certified "A" Class hoarding shall be constructed on the footpath adjacent to the building site to protect pedestrians during demolition of the existing building and construction of the new building.

"B" Class Hoardings

An engineer certified overhead "B" Class hoarding, complying with the requirements of the Department of Industrial Relations & Technology, shall be constructed over Council's footpath to protect pedestrians during demolition of the existing building and the erection of the new building.

A formal hoarding application shall be made to Council and demolition or construction work must not commence until the hoarding has been erected and then approved by Council and all applicable fees and charges paid.

(Reason: Public safety)

16. DAGCC04 - Ventilation

To ensure that adequate provision is made for ventilation of the premises, mechanical and/or natural ventilation systems shall be designed, constructed and installed in accordance with the provisions of:

- The Building Code of Australia;
- Protection of the Environment Operations Act 1997; and
- Relevant Australian Standards

Ventilation above cooking equipment

Mechanical ventilation must be provided above cooking equipment and is to be designed and installed in accordance with relevant Australian Standards '*The use of ventilation and air conditioning in buildings - Ventilation design for indoor air contaminant control*'.

(Reason: Compliance with relevant standards)

17. DAGCC05 - Waste Management

Requirements of the approved Waste Management Plan shall be complied with during site preparation and throughout demolition and construction. Waste management and its storage must not pose a threat to public health or the environment.

(Reason: Compliance with approval)

18. DAGCD01 - Approved Stormwater Drainage Design

The stormwater drainage system for the proposed development shall be constructed in accordance with the following approved plans and documentation, endorsed with Council's Stamp, and Council's "Specification for the Management of Stormwater", except where amended by other conditions of consent:

<i>Drawing Ref. No.</i>	<i>Name of Plan</i>	<i>Prepared by</i>	<i>Date</i>
Job No. 130376 DA1.01 (revision 3)	Cover Sheet, Drawing Schedule and Site Location	Northrop Sydney	23/01/2015
Job No. 130376 DA1.02 (revision 3)	Specification Notes	Northrop Sydney	23/01/2015
Job No. 130376 DA2.01 (revision 3)	Concept Sediment and Erosion Control Design	Northrop Sydney	23/01/2015
Job No. 130376 DA2.02 (revision 3)	Concept Sediment and Erosion Control Details	Northrop Sydney	23/01/2015
Job No. 130376 DA3.01 (revision 3)	Concept Stormwater Catchment Plan – Post Development	Northrop Sydney	23/01/2015
Job No. 130376 DA4.01 (revision 4)	Concept Stormwater Management Plan – Ground Floor	Northrop Sydney	23/01/2015
Job No. 130376 DA4.02 (revision 1)	Concept Stormwater Management Plan – Basement Level	Northrop Sydney	23/01/2015
Job No. 130376 DA4.03 (revision 1)	Existing Stormwater Plan	Northrop Sydney	23/01/2015
Job No. 130376 DA4.11 (revision 1)	Existing Stormwater Pipe Longitudinal Section	Northrop Sydney	23/01/2015
Job No. 130376 DA5.01 (revision 3)	Detail Sheet 1	Northrop Sydney	23/01/2015
Job No. 130376 DA5.02 (revision 4)	Detail Sheet 1	Northrop Sydney	23/01/2015
Job No. 130376 DA5.03 (revision 3)	Detail Sheet 3	Northrop Sydney	23/01/2015

Important Note: Should any changes be required to the approved stormwater drainage plan as referred to above, the amended design shall achieve equivalent performance standards in accordance with Council's "Specification for the Management of Stormwater".

(Reason: Stormwater management)

Conditions which must be satisfied prior to the commencement of demolition of any building or structure

19. DAPDB01 - Construction Certificate - Prior to the Commencement of any Demolition Works

Where demolition is associated with the erection of a new structure, or an altered portion of or an extension to an existing building, the demolition of any part of a building is "commencement

of erection of building" pursuant of section 81A(2) of the Act. In such circumstance all relevant conditions of this consent must be satisfied prior to any demolition work. This includes, but is not limited to, the **issue of a Construction Certificate, appointment of a PCA and Notice of Commencement under the Act.**

(Reason; Statutory Requirement)

20. DAPDB02 - Demolition

(a) That two (2) working days (i.e. Monday to Friday exclusive of public holidays) prior to the commencement of any demolition work, notice in writing is to be given to the Council. Such written notice is to include:

- The date when demolition will commence,
- Details of the name, address and business hours contact telephone number of the demolisher, contractor or developer.
- The licence number of the demolisher, and relevant WorkCover licenses, (see minimum licensing requirements in (d) below, and
- Copies of the demolisher's current public liability/risk insurance policy indicating a minimum cover of \$10,000,000.00.

(b) Demolition of buildings and structures must comply with all current and relevant Australian Standards.

(c) **If the works require a Construction Certificate**, work shall not commence until the Principal Certifying Authority (PCA) has inspected the site. Should the building to be demolished be found to be wholly or partly clad with or contain asbestos cement products, approval to commence demolition shall not be given until the PCA is satisfied that all measures are in place so as to comply WorkCover's *Guide to Working with Asbestos*.

Note: A copy of this publication can be obtained from WorkCover Authority's website www.workcover.nsw.gov.au <<http://www.workcover.nsw.gov.au>

(d) Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover 'Demolition License' AND a current WorkCover 'Class 2 (Restricted) Asbestos Licence'.

(e) Demolition works are restricted as follows:

- Monday to Saturday inclusive (7:00am - 5:00pm)
- Sundays and Public Holidays (No work)

(f) At least two (2) working days (i.e. Monday to Friday exclusive of public holidays), the developer or demolition contractor must notify adjoining residents prior to demolition commencing advising the following:

- The date when demolition will commence;
- Details of the name, address and business hours contact telephone number of the demolisher, contractor or developer;
- The telephone number of WorkCover's Hotline (02) 8260 5885.

(Reason: To ensure compliance with the relevant legislation and to ensure public and work safety)

21. DAPDB03 - Site Safety Fencing - Demolition only

Erect site fencing to a minimum height of 1.8m complying with WorkCover Guidelines, to exclude public access to the site throughout the demolition. The fencing **must be erected before the commencement of any demolition work** and maintained.

The site shall be maintained in a clean and orderly condition during demolition works.

Hoardings

If applicable, a separate Hoarding Application for the erection of an A class (fence type) or B class (overhead type) hoarding along the street frontage(s) complying with WorkCover requirements must be obtained including:

- payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges before the commencement of work; and
- provision of a Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained with a copy provided to Council.

(Reasons: Statutory Requirement and health and safety)

22. DAPDB04 - Tree Preservation - during demolition

All street trees and trees on private property that are protected under Canada Bay Council's controls, shall be retained and protected during demolition works except where Council's prior written consent has been obtained.

(Reason: Tree Preservation and Protection)

23. DAPDB05 - Erosion and Sediment Control During Demolition

Erosion and sedimentation controls shall be in place **prior to the commencement of demolition works** and shall be maintained throughout the demolition of the building and any regrading of the ground levels, approved removal of vegetation etc. The controls shall be installed in accordance with the details approved by Council and/or as directed by Council officers. These requirements shall be in accordance with Managing Urban Stormwater - soils and Construction produced by Landcom (Blue Book). A copy of the Erosion and Sediment Control Plan must be kept on site during the demolition works and made available to Council officers on request.

(Reason: Environmental protection)

Conditions which must be satisfied prior to the issue of a Construction Certificate

24. DACCA01 - Access for People with Disabilities

Access for people with disabilities must be provided in accordance with the requirements of the Building Code of Australia, relevant Australian Standards and with regard to the *Disability Discrimination Act 1992*. **Prior to the issue of a Construction Certificate**, the plans shall demonstrate compliance. **Note: Disability (Access to Premises - Buildings) Standards 2010** - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.

(Reason: To inform of relevant access requirements for persons with a disability)

25. DACCA02 - Disabled Toilets

Plans and details of the disabled toilet/s complying with the relevant Australian Standards, the Building Code of Australia, and with regard to the *Disability Discrimination Act 1992*. **Prior to the issue of a Construction Certificate**, the plans shall demonstrate compliance. **Note: Disability (Access to Premises - Buildings) Standards 2010** - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.

The plans must be approved by the Accredited Certifier **prior to issue of a Construction Certificate**.

(Reason: To inform of relevant access requirements for persons with a disability)

26. DACCA03 - Traffic - Drop-off/Pick-up Area at Mary Street Entrance

The design of the vehicular drop-off/Pick-up area at the Mary Street main entrance shall be detailed to the satisfaction of Council's Traffic Engineer and Traffic Committee. Final detailed plans shall be developed in consultation with Council's Traffic Engineer and submitted to Council for assessment and approval **prior to the issue of a Construction Certificate**.

(Reason: Traffic and Parking Management)

27. DACCA04 - Construction Traffic Management Plan (CTMP) - Special condition

1) **Prior to the issue of a Construction Certificate**, the applicant shall submit, for review and approval by Council's Engineers, a detailed Construction Traffic Management Plan (CTMP). The plan shall demonstrate how construction and delivery vehicles will access the development site during the demolition, excavation and construction phase of the development. The plan shall be certified by a suitably qualified and experienced traffic consultant and all traffic associated with the subject development shall comply with the terms of the approved Construction Traffic Management Plan.

The following matters (at a minimum) must be addressed in the CTMP:

- A detailed description and route map of the proposed truck/construction vehicle access routes,
- The locations of any proposed Construction Works Zones along the site frontage,
- Provide a construction schedule,
- Tradesperson parking (parking shall be provided on-site where possible),
- Provide relevant Traffic Control Plans (certified by an RMS accredited person i.e. red or orange ticket),
- Provide relevant Pedestrian Management Plans,
- A site plan which indicates site entrances and exits, turning areas within the site for construction and spoil removal vehicles allowing a forward ingress and egress for all construction vehicles on the site (superimposed truck swept path diagrams). Site entrances and exits shall be controlled by a certified traffic controller.

2) The applicant shall be advised that Council approvals must be obtained in relation to all works which are located externally from the site within the road reserve/public place, in accordance with the requirements of the Roads Act 1993. These approvals include Public Space Occupations, Work Zones, Stand Plant and Road Closures. The relevant application forms and details of the proposed works are to be submitted to and approved by Council prior to commencing any works within the road reserve/public place.

3) Prior to the issue of a construction certificate, building plans shall demonstrate compliance with the relevant provisions of AS/NZS2890.1:2004. This includes but is not limited to 2.5m by 2.0m sight triangles being provided adjacent to the driveways for pedestrian safety and all objects located outside of the parking envelope indicated in figure 5.2 of the standard.

(Reason: Traffic and Parking Management During Construction)

28. DACCB02 - Damage Deposit for Council Infrastructure

A Damage Deposit (calculated in accordance with Council's adopted Fees and Charges) of **\$40,000.00** shall be paid to Council **prior to the issue of the Construction Certificate**.

This Damage Deposit shall be refunded upon completion of all works, at the Occupation or Final Certificate stage.

Any costs associated with works necessary to be carried out to rectify any damages caused by the development, shall be deducted from the Damage Deposit.

Note: Full panel concrete footpath replacement in areas where connection to all services are required. This includes driveways and road concrete panels. This will stop differential settlement and maintain the integrity of council infrastructure and asset.

(Reason: Protection of Council infrastructure)

29. DACCB03 - Long Service Levy Payments

The payment of a long service levy as required under part 5 of the *Building and Construction Industry Long Service Payments Act 1986*, in respect to this building work, and in this regard, proof that the levy has been paid, is to be submitted to Council **prior to the issue of a Construction Certificate**. Council acts as an agent for the Long Services Payment Corporation and the levy may be paid at Council's Office.

(Reason: Statutory requirement)

30. DACCB08 - Fees to be paid to Council prior to issue of the Construction Certificate

Damage Deposit	\$40,000.00
TOTAL	\$40,000.00 + CPI where applicable

PLEASE NOTE that other fees and charges may be applicable to the proposal.

The applicant is advised to obtain a copy of Council's latest Fees and Charges schedule available at Council's Customer Services Section. Further information as to other fees and charges applicable to your development may be obtained by contacting Council's Customer Services Centre on 9911 6555 during office hours.

(Reason: Statutory requirement and information)

31. DACCE01 - Amendments to Approved Plans

The following amendments shall be made to the approved plans prior to the issue of a Construction Certificate:-

Traffic & Parking

- a) Millar Street access - Maximum allowable width of driveway to be 5.0 metres at the layback and 7.0 metres at the boundary.
- b) Note that where disabled parking spaces are required in the basement, the minimum overhead clearance height is 2.3m.
- c) The design and layout of the Drop-off/Pick-up Point area at the Mary Street entrance shall be finalised and detailed as per approved design by Council's Traffic Engineer following issue of Development consent and **prior to the issue of a Construction Certificate**.

General

- d) Changes as per condition **DACCH02 - Privacy – Balustrades**.
- e) Additional privacy screen planting to be provided on the site along the shared boundary with 42B Janet Street. The screen planting is to be an appropriate height so as to minimise the appearance of the development from the perspective of the adjoining neighbour.

Note: This involves a change to the Development Application plans as submitted to and approved by Council. Any changes in this regard shall be reflected as amended plans to be

submitted to the Accredited Certifier **prior to the issue of a Construction Certificate** for the proposed development.

(Reason: To confirm and clarify the terms of Council's approval)

32. DACCE02 - Construction Management Plan

Prior to the issue of a Construction Certificate, submit to the Accredited Certifier a Construction Management Plan that clearly sets out the following:

- (a) What actions and works that are proposed to ensure safe access to and from the site, and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like.
- (b) The proposed method of loading and unloading excavation machines, building materials, formwork, and the erection of any part of the structure within the site.
- (c) The proposed areas within the site to be used for a builder's site office and amenities, the storage of excavated material, construction materials and waste containers during the construction period.
- (d) How it is proposed to ensure that soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways.
- (e) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve - the proposed method of support is to be designed by a Chartered Civil Engineer.
- (f) A Soil and Water Management Plan detailing all sedimentation controls.

(Reason: Safety, amenity and protection of public infrastructure and the environment)

33. DACCE04 - Obtaining a Construction Certificate for Building Work

This Development Consent does not constitute approval to carry out construction work. Construction work may only commence **upon the issue of a Construction Certificate, appointment of a Principal Certifying Authority (PCA), and lodgement of Notice of Commencement**.

Please note that if demolition works forms part of the extent of works approved in the same application, then demolition must not commence **prior to the issue of a Construction Certificate**.

(Reason: Information)

34. DACCE05 - Waste Water Control

The applicant shall contact Sydney Water, to determine the requirements for the disposal of wastewater and liquid trade waste (including grease traps or grease arrestors). The applicant must provide a copy of the Authority to connect to the sewer system **prior to the issue of a Construction Certificate**.

There is to be no discharge of wastewater to the stormwater system.

(Reason: Information)

35. DACCF02 - Landscape Maintenance Strategy

To ensure the survival of landscaping following works, a landscape maintenance strategy for the owner/occupier to administer over a 12 month establishment period following the issue of the Occupation Certificate shall be prepared and provided to the satisfaction of the Accredited Certifier **with the Construction Certificate application**. The strategy is to address maintenance issues such as, but not limited to plant survival, irrigation, soil testing, weeding, staking, fertilizing, remedial pruning and plant replacement.

(Reason: Ensure landscape survival)

36. DACCF04 - On Slab Landscaping

To ensure the site landscaping thrives the on slab landscaping shown on the approved landscaping plan is to be designed to include a minimum soil depth of 650mm for shrubs and trees and 300mm for grass and ground covers, adequate drainage and a permanent, automatic irrigation system conforming to Sydney Water's current *Waterwise Policy*. Details shall be submitted **with the Construction Certificate application**.

(Reason: Ensure landscape survival)

37. DACCG01 - Available Visitor Car Parking Signage

A sign shall be erected in a suitable location on the property near the driveway entrance indicating where visitor parking is available on the site. Details shall be submitted **prior to the issue of the Construction Certificate**.

(Reason: Adequate access and egress)

38. DACCG04 - Disabled Car Parking Spaces

Four (4) of the car parking spaces provided as part of the total requirement shall be reserved for disabled persons. These spaces shall be a minimum of 3.2m wide x 5.5m long in accordance with Australian Standard AS2890.6 and located near pedestrian access routes designed for disabled persons. Each space shall be clearly marked as such.

Car parking for people with disabilities shall be provided in accordance with the Building Code of Australia, relevant Australian Standards and with regard to the *Disability Discrimination Act 1992*. **Prior to the issue of a Construction Certificate**, the plans shall demonstrate compliance. **Note: Disability (Access to Premises - Buildings) Standards 2010** - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.

The above details shall be submitted to and approved by the Accredited Certifier **prior to the issue of the Construction Certificate**.

(Reason: To inform of relevant access requirements for persons with a disability)

39. DACCG07 - Off Street Parking Provision - General

Seventy-five (75) off-street car parking spaces plus two (2) minibus parking spaces shall be suitably marked in accordance with the approved plans (unless elsewhere specified) shall be provided. Each space shall have minimum dimensions in accordance with the relevant Australian Standard.

Details are to be submitted to the Accredited Certifier **prior to the issue of a Construction Certificate** showing compliance with this condition.

(Reason: Parking and access)

40. DACCG09 - Ramp Width Requirements (multi-unit development)

The internal driveway must be a minimum 5.50m wide (clear width) for the first 6 metres inside the property so as to allow entering & exiting vehicles to pass within the site. Should the driveway narrow after this point it is then to be designed with a minimum 1.5m x 1.5m splay to allow the passing to work. The building plans shall indicate compliance with this requirement **prior to the issue of a construction certificate**.

(Reason: Safety and traffic management)

41. DACCG10 - Speed Hump and Stop Sign on Exit

The applicant shall install a stop sign and a speed hump at the exit from the site. The stop sign must be accompanied by the associated line marking and the speed hump shall be set back by 1.5 metres from the boundary alignment. The devices shall be designed and constructed in accordance with the provision of all relevant Australian Standards. The building plans shall indicate compliance with this requirement **prior to the issue of a construction certificate**.

(Reason: Traffic safety and management)

42. DACCG13 - Vehicular Access Ramps

Vehicular access ramps shall comply with the provisions of AS/NZS 2890.1:2004. Plans to be submitted shall contain the following details:

- (i) Longitudinal section along the extreme wheel paths of each driveway/access ramp at a scale of 1:25 demonstrating compliance with the scraping provisions of AS/NZS 2890.1:2004. It shall include all levels and grades, including those levels stipulated as boundary levels, both existing and proposed. It shall extend from the centre-line of the roadway through to the parking area.
- (ii) Sections showing the clearance to the underside of any overhead structure (minimum headroom requirements 2200mm minimum for standard headroom clearance or 2400mm where disabled access provisions are to be provided) demonstrating compliance with the provisions of AS/NZS 2890.1:2004.
- (iii) Longitudinal section along the gutter line showing how it is intended to transition the vehicular crossing into the existing kerb and gutter. Boundary levels shall generally run parallel with the kerb levels.
- (iv) Location of verge trees, street furniture and service installations.
- (v) Superimposition of vehicle turning circles for access into parking spaces.
- (vi) Certification that the design complies with AS/NZS 2890.1:2004 by a Qualified Engineer.

The certification referred to in (vi) above shall be submitted to the Accredited Certifier **prior to the issue of a Construction Certificate (for the design) and to the Principal Certifying Authority prior to the issue of any Occupation Certificate for the 'as-built works'**.

(Reason: To ensure adequate vehicular access can be achieved)

43. DACCG14 - Vehicular Circulation, Aisles & Ramps

The aisle widths, internal circulation, ramp widths and grades of the car park shall comply with the Roads and Traffic Authority Guidelines and AS/NZS 2890.1:2004 - Off-Street Car Parking Code.

(Reason: Parking and access)

44. DACCH02 - Privacy - Balustrades

In order to protect the privacy of adjoining premises, the balustrades to all balconies along the south-eastern elevation on levels 2 & 3 shall include permanent, solid/opaque and continuous balustrade/planter box privacy devices as detailed in the approved plans listed in Condition No. 1. The changes in this regard (that is, solid/opaque balustrade/planter boxes, and clarification of depth and height) shall be reflected as amended plans to be submitted to the Accredited Certifier **prior to the issue of a Construction Certificate** for the proposed development.

The planter components of the balustrades shall be a minimum of 750mm in depth and 1000mm in height and be capable of sustaining vegetation. The form of the external face of the balustrade/planter box structures may be articulated to create visual interest as intended in the original design.

Privacy louvre screening for rooms on level 1 at the south-western corner, as detailed in the approved drawings in Condition No. 1, shall also be amended accordingly on all plans.

(Reason: Amenity)

45. DACCI01 - Damage Report

Prior to the issue of the Construction Certificate, a Damage Report Form shall be completed and submitted to Council. This Damage Report Form is for the evaluation of the existing condition of the road reserve, which must be filled out and signed by the Applicant and submitted to Council.

This Form will be used to assist Council in determining the refund of any damage deposits and any likely repairs necessary. If an approved Damage Report Form is not provided, Council at its discretion shall carry out an independent evaluation of the condition of the road reserve and any damages found will be rectified at the Applicant's cost.

When lodging the Damage Report Form, fees are payable in accordance with Council's fees and charges schedule, which will go towards administration and inspection costs.

The cost of repairing any damage to Council property (including the footpath, verge, street trees, kerb, gutter, road pavement or the like) during and/or immediately after construction must be paid to Council or shall be deducted from the damage deposit bond. Repair of damaged Council property by the Applicant or his agent is not permitted unless approved by Council.

For roadways requiring asphaltic concrete works or adjustment works, these shall be done to a minimum width as specified by Council. Minimum dimensions are given in Council's Specification for Driveway Construction or Specification for Restoration Works.

(Reason: Maintain public assets)

46. DACCI03 - Protection of Public Places

The adjoining or adjacent public area is not to be obstructed by any materials, vehicles, refuse skips and the like, under any circumstances unless approved in writing by Council.

If the work involved in the demolition or construction of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the closure of a public place, a barrier, fence or hoarding shall be erected **prior to the commencement of any work** subject to approval of a Traffic Management Plan.

An application to occupy public space is to be submitted to Council for approval prior to commencement of works.

Where a hoarding is required, an application for hoarding is also to be submitted to and approved by Council prior to commencement of any work. Hoardings shall be erected to comply with the requirements of WorkCover, the Principal Certifying Authority and with relevant Australian Standards.

(Reason: Safety)

47. DACCI04 - Submission of Plans for Works within the Road Reserve

The submission to Council of three (3) copies of Civil Engineering plans for the design of all works within the road reserve required adjacent/near/outside <insert address> including long and cross sections, details of proposed structures and specifications

The drawings must be approved by Council in writing and all fees and charges paid **prior to the issue of the Construction Certificate**.

Such design shall be:

- (a) Prepared and submitted on A1, or A3 size sheets, undertaken by a consulting Civil Engineer,
- (b) Approved by Council under Section 138 of the Roads Act., prior to the issue of the Construction Certificate, and
- (c) Upon completion of the works, the Applicant is to provide to Council two (2) copies of "work as executed plans". The plans are to show relevant dimensions and finished levels and are to be certified by a surveyor. Also the Applicant is to provide to Council, in an approved format, details of all public infrastructure created as part of the works, and
- (d) All Civil Engineering works adjacent/near/outside [address] is to be fully supervised by Council. A maintenance period of six (6) months shall apply to the work, after it has been completed and approved. In that period the Applicant shall be liable for any part of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the design conditions.

(Reason: To ensure compliance of engineering works/Council assets are constructed to acceptable standards for engineering works)

48. DACCI05 - Vehicular Crossings

Full-width, heavy-duty concrete vehicular crossing(s) shall be provided across the footpath at the entrance(s) and/or exit(s) to the site, subject to approval by Council's Engineer. In this regard the Applicant must obtain a copy of Council's "Specification for Driveway Construction" and lodge an application for vehicular crossing(s) (available from Council's Customer Services Centre or downloaded from Council's internet website), and pay the appropriate fees and charges **prior to the lodgement of the Construction Certificate**.

(Reason: To ensure appropriate access to the site can be achieved)

49. DACCJ01 - Hoardings

A Hoarding Application for the erection of a Class A (fence type) or Class B (overhead type) hoarding along the street frontage(s) complying with WorkCover requirements must be obtained.

The relevant application form shall be submitted to Council with a footpath occupancy fee based on the area of footpath to be occupied according to Council's Schedule of Fees and Charges, and the application shall be approved **before the commencement of work**.

A Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained with a copy also provided to Council. The Policy is to note Council as an interested party. The copy is to be provided to Council **prior to the issue of a Construction Certificate**.

(Reason: Safety & information)

50. DACCK01 - Application for a Construction Certificate

The applicant must apply to Council or an Accredited Certifier for a Construction Certificate to carry out the relevant building works that are approved by this consent. The details to be included in the application for a Construction Certificate are:

- (a) Architectural plans and specifications complying with the Building Code of Australia (BCA), relevant Australian Standards, and the development consent and conditions.
- (b) If Council issues the Construction Certificate, engineering details must be submitted for approval for all structural elements, including but not limited to, piers, footings, reinforced concrete slab, first floor joist layout, roof trusses, steel beams and the like. The details must be

prepared by a practising consulting structural engineer. Also a certificate from the engineer must be included certifying that the design fully complies with appropriate SAA Codes and Standards and the Building Code of Australia requirements.

Note: The engineer/s undertaking certification must be listed on the National Professional Engineers Register under the appropriate category.

(c) Geotechnical report for the site, prepared by a qualified geotechnical engineer detailing the foundation conditions of the site and solutions for consideration by a structural Engineer.

(d) Essential services plan outlining the existing and proposed fire safety measures.

(e) Disabled access provisions to common and public areas in accordance with AS1428.

(f) If an alternative solution to the “deemed to satisfy” provisions of BCA is proposed, the following details must be lodged:

- Performance requirements that the alternative solution intends to meet.
- Assessment methods used to determine compliance with the performance requirements, including if and how each performance objective impacts on other requirements of the BCA; and
- A statement about the person who prepared the alternate solution, indicating qualifications, experience, insurance details, and membership of an approved accreditation body

Note: The performance-based application may be required to be reviewed by a suitably qualified independent body at the applicant's expense. Any fees relating to any review are required to be paid **prior to the issue of the Construction Certificate**.

(Reason: Statutory requirement)

51. DACCK03 - Energy Australia Requirements

The approved development must comply with the requirements of Energy Australia. **Prior to the issue of a Construction Certificate**, the applicant shall demonstrate to the Accredited Certifier that any such requirements have been complied with.

(Reason: Statutory requirement)

52. DACCL01 - Detailed Stormwater Drainage System Design

Prior to the issue of the Construction Certificate a detailed stormwater drainage plan for the disposal of stormwater from the site, prepared in accordance with Council's “Specification for the Management of Stormwater” shall be submitted and approved by the Accredited Certifier.

Should any changes be required to the approved stormwater drainage plan, the amended design shall achieve equivalent performance standards in accordance with Council's “Specification for the Management of Stormwater”.

Important Note: Construction Certificate Approval does not include approval for works external to the property. Where the proposed design extends beyond the property boundary, separate approval under Section 138 of the Roads Act 1993, must be obtained from Council prior to the commencement of works.

The applicant is advised to contact Council for clarification of proposed works for which approval under Section 138 applies.

(Reason: Stormwater management)

53. DACCL02 - Certification of the Stormwater Drainage System Design

The proposed stormwater design shall be certified by a suitably qualified person, in accordance with Council's "Specification for the Management of Stormwater", **prior to the issue of the Construction Certificate.**

(Reason: Adequate stormwater management)

54. DACCL04 - Erosion and sedimentation controls

Erosion and sedimentation controls must be provided to ensure:

- (a) Compliance with the approved Soil and Water Management Plan
- (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
- (c) All uncontaminated run-off is diverted around cleared or disturbed areas
- (d) Silt fences or other devices are installed to prevent sediment and other debris escaping from the cleared or disturbed areas into drainage systems or waterways
- (e) All erosion and sediment controls are fully maintained for the duration of demolition/development works
- (f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadways
- (g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
- (h) All water pumped or otherwise removed from excavations or basement areas is filtered to achieve suspended solids/non filterable residue levels complying with the *Australian Water Quality guidelines for Fresh and Marine Waters*
- (i) Pumped or overland flows of water are discharged so as not to cause, permit or allow erosion before the commencement of work (and until issue of the occupation certificate).

Details of the proposed soil erosion and sedimentation controls to be implemented on site must be submitted **with the Construction Certificate Application**. Under no circumstances may any works commence prior to these details being approved by the Accredited Certifier and the controls being in place on the site

(Reason: Environmental protection)

55. DACCL05 - Grated Drain to Garage

A grated trench drain shall be provided across the (garage entrance/driveway/street boundary). Unless otherwise sized by a Hydraulic Engineer, the dimensions of the trench grate shall be no less than 300mm wide by 100mm deep at the shallow end, and have a "bottom" slope of 2 %. This trench drain shall be connected to an approved drainage system.

In the event of the Hydraulic Designer sizing the grated drain, the calculation shall be in accordance with AS/NZS3500.

The above information must be indicated on all relevant drawings **to be submitted with the Construction Certificate.**

(Reason: Environmental protection)

56. DACCL06 - Rainwater Re-use

A rainwater re-use system shall be provided in accordance with either the BASIX minimum requirements, any relevant Council Rainwater Policy and/or "Specification of the Management of Stormwater", whichever is applicable. A detailed stormwater plan showing the proposed re-use system shall be submitted and approved by Council or an Accredited Certifier **prior to the issue of the Construction Certificate.**

(Reason: Compliance and Amenity)

57. DACCL07 - Silt Arrestors and Gross Pollutant Traps

Silt and gross pollutant traps shall be fitted in all new stormwater pits, designed in accordance with Council's "Specification for the Management of Stormwater" and to the satisfaction of Council or an Accredited Certifier. Details are to be submitted with the design **prior to the issue of the Construction Certificate.**

(Reason: Environmental)

58. DACCM01 - Dilapidation Report

Subject to access being granted, a Dilapidation Report is to be undertaken on all properties, which in the opinion of a suitably qualified engineer, could be potentially affected by the construction of the project. The Dilapidation Report shall be carried out **prior to the issue of the Construction Certificate.**

The Dilapidation Report is to be prepared by a suitably Qualified Engineer with current Corporate Membership with the Institution of Engineers, Australia or Geotechnical Practitioner.

The Report shall cover structural and geotechnical factors likely to arise from the development.

A copy of this Report shall be submitted to Council as a record.

The person having the benefit of the development consent must, at their own cost, rectify any damage caused to other properties during the construction of the project.

(Reason: Safety)

59. DACCM02 - Geo-technical Report

A comprehensive geo-technical engineering report assessing the impact and safety of the proposed works shall be prepared by a suitably experienced and qualified geo-practitioner and **submitted with any Construction Certificate.** The report must include the results of subsurface investigations involving either test pits to rock, or preferably the drilling of cored boreholes (to 1m below the proposed final excavation level). The report shall describe inter alia:-

- (a) an indication of the nature and depth of any uncontrolled fill at the site;
- (b) an indication of the nature and condition of the material to be excavated;
- (c) indications of groundwater or seepages;
- (d) required temporary measures for support of any excavations deeper than 1m adjacent to property boundaries;
- (e) statement of required excavation methods in rock and measures required to restrict ground vibrations;
- (f) other geo-technical information or issues considered relevant to design and construction monitoring.

(Reason: Structural safety)

60. DACCM03 - Structural Adequacy of Existing Structure

A Certificate of Structural Adequacy prepared and signed by a qualified practising Structural Engineer with suitable professional indemnity cover must be submitted to the Accredited Certifier in respect of the load carrying capabilities of the existing structure to support the proposed additions **prior to the issue of a Construction Certificate.**

(Reason: Structural safety)

61. DACCM04 - Support and Protection for Neighbouring Buildings

If an excavation associated with the approved development extends below the level of the base of the footings of a building on an adjoining allotment of land, the person having the benefit of the development consent must, at the person's own expense, comply with the requirements of clause 98E of the Environmental Planning and Assessment Regulation 2000, including:

- (1) (a) protect and support the adjoining premises from possible damage from the excavation, and
- (b) where necessary, underpin the adjoining premises to prevent any such damage.
- (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Details shall be submitted to the Accredited Certifier **prior to the issue of a Construction Certificate**.

(Reason: Structural safety)

62. DACCN02 - Electricity Substation

Any required electricity substation must be located within the boundaries of the site.

Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the Accredited Certifier **prior to the issue of a Construction Certificate** detailing the energy authority's requirements.

Note: Where an electricity substation is required but no provision has been made to place it within the approved building or its site and no details are provided on the approved development consent plans, a section 96 application is required to be submitted to Council for approval of an appropriate location for the required electricity substation.

(Reason: Access to utility)

63. DACCN03 - Telecommunications

Provision must be made for relocation of telecommunications network assets including underground placement of any existing aerial cables and infrastructure. Any costs associated with the relocation of the above are at the requestor's expense.

Should you need to discuss access to or relocation of any Telstra assets please contact Telstra's Network Integrity team by email F1102490@team.telstra.com or by phone: 1800 810 443 (opt1).

Details are to be submitted **with the application for a Construction Certificate**.

(Reason: Environmental Amenity)

Conditions which must be satisfied prior to the commencement of any development work

64. DAPCA02 - Initial Arborist Report

The applicant must engage a suitably qualified and experienced arborist (Australian Qualification Framework Level 5 or above) to assess the impact of the proposed works and employ industry best practices (e.g. minimise compaction, soil build up and or excavation within the Primary Root Zone*) to ensure the longevity of the trees to be retained. The arborist is to prepare and submit, to the satisfaction of the Accredited Certifier, a report **prior to works proceeding** documenting the measures to be employed and certifying that they have been implemented.

- primary root zone = 10 x trunk diameter 1400mm from ground level (measured as a radius from the centre of the trunk).

(Reason: Qualified assessment of impact of proposed works on trees to be retained)

65. DAPCA04 - Removal of Trees

The following trees are approved for removal:

- All trees as indicated in the approved Arboricultural Impact Assessment Report and related documentation

Note: Trees identified in the approved Arboricultural Impact Assessment Report as T14, T15, T30, T33, T40 and A3 shall be protected and retained.

To ensure the protection of tree/s to be retained on site all removals are to be undertaken by a suitably qualified arborist practicing industry current arboricultural best practice methods.

Trunk protection to applicable trees must be in place **prior to the commencement of any works**.

(Reason: Compliance with consent and tree protection)

66. DAPCA05 - Trunk Protection

To limit the potential for damage to all trees approved to be retained, as indicated in the approved plans and conditioned, trunk protection measures must be installed for the following tree/s **prior to the commencement of demolition, excavation or building works**:

Species	Location (see approved Arboricultural Assessment report and related documentation)
<i>Syzygium paniculatum</i> (Magenta Lilly Pilly)	T14
<i>Eucalyptus paniculatum</i> (Sydney Blue Gum)	T15
<i>Carymbia citriodora</i> (Lemon Scented Gum)	T30
<i>Eucalyptus tereticomis</i> (Forest Red Gum)	T33
<i>Carymbia citriodora</i> (Lemon Scented Gum)	T40
<i>Eucalyptus tereticomis</i> (Forest Red Gum)	A3

Trunk protection shall comprise the placement of 2000mm lengths of 100mm x 50mm hardwood battens organized vertically at 150mm centres around the trunk and secured in place by metal strap bindings or ten gauge fencing wire fixed at 300mm centres. Prior to placing battens a soft protective padding must be installed to the ends of the timbers to prevent damage to the bark and conductive tissue. Under no circumstances are the battens to be secured to the tree by a method that involves the trunk being penetrated by a nail, screw, rod or the like. **Trunk protection must remain in place for the duration of the works.**

(Reason: Tree trunk protection)

67. DAPCB01 - Appointment of Principal Certifying Authority

No work shall commence in connection with this Development Consent until:

- (a) A construction certificate for the building work has been issued by:
 - (i) the consent authority; or
 - (ii) an accredited certifier; and
- (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and

- (b1) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the Council of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (b2) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - (ii) notified the principal certifying authority of such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (c) the person having the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.

Note: If the principal certifying authority is the Council, the nomination will be subject to the payment of a fee for the service to cover the cost of undertaking all necessary inspections and the issue of the appropriate certificates.

Under the Environment Planning and Assessment (Quality of Construction) Act, 2003, a sign must be erected in a prominent position on the work site showing the name, address and telephone number of the principal certifying authority; the name of the principal contractor (if any) for the building work and a telephone number at which that person may be contacted outside working hours. That sign must also state that unauthorised entry is prohibited. The sign must not be removed until all work has been completed.

(Reason: Statutory requirements)

68. DAPCB02 - Construction Certificate

No work shall commence until you:

- (a) Obtain a Construction Certificate from either the City of Canada Bay Council or an Accredited Certifier - a fee applies for this service; and
- (b) Lodge with the City of Canada Bay Council any Construction Certificate obtained from an Accredited Certifier (together with associated plans and documents) - a fee applies for this service

(Reason: Statutory Requirement)

69. DAPCB05 - Notice of commencement

No work shall commence until you submit a notice of commencement (form will be attached with issue of a Construction Certificate or available from our website) giving Council:

- (a) Not less than two (2) days' notice of the date on which it is proposed to commence work associated with this Development Consent;
- (b) Details of the appointment of a Principal Certifying Authority (either Canada Bay Council or another Accredited Certifier)
- (c) Details of the name, address and licence details of the Builder.

(Reason: Statutory Requirement)

70. DAPCB06 - Site Safety Fencing

Erect site fencing to a minimum height of 1.8m complying with WorkCover Guidelines, to exclude public access to the site throughout the construction works. The fencing **must be erected before the commencement of any work and maintained.**

The site shall be secured in accordance with Clause 146 of the Environmental Planning and Assessment Regulation 2000. The site shall be maintained in a clean and orderly condition during demolition and construction works.

Hoardings

If applicable, a separate Hoarding Application for the erection of an A class (fence type) or B class (overhead type) hoarding along the street frontage(s) complying with WorkCover requirements must be obtained including:

- payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges before the commencement of work; and
- provision of a Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained with a copy provided to Council.

(Reasons: Statutory Requirement and health and safety)

71. DAPCB07 - Principal Certifying Authority (PCA) Sign

Prior to commencement of any work, signage must be erected in a prominent position on the work site identifying:

- The Principal Certifying Authority (PCA) by showing the name, address and telephone number of the PCA;
- The Principal Contractor by showing the Principal Contractor's name, address and telephone number (outside of work hours) for that person.
- The sign must state that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the work is being carried out, but must be removed when the work has been completed.

This clause does not apply to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

(Reason: Statutory Requirement)

72. DAPCB09 - Toilet Amenities on Construction Site

Prior to commencement of any building works, toilet facilities for employees must be provided in accordance with WorkCover NSW requirements.

Where female workers are present on site, appropriate measures for sanitary item disposal should be made, such as a disposal unit provided in the portable toilet or sewer connected toilet closet.

(Reason: Statutory Requirement - Health and amenity)

73. DAPCB10 - Notice of Requirements from Sydney Water

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. For details refer to Sydney Water's website at www.sydneywater.com.au.

Following application a "Notice of Requirements" will be forwarded detailing 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.

The Notice of Requirements must be submitted to the Accredited Certifier **before the commencement of works**.

(Reason: To comply with statutory requirements)

74. DAPCC01 - Erosion & Sediment Control: Minor works - Prior to construction

Erosion and sedimentation controls shall be in place **prior to the commencement of site works**; and maintained throughout construction activities until the site is landscaped and/or suitably revegetated. The controls shall be in accordance with the details approved by Council and/or as directed by Council Officers. These requirements shall be in accordance with Managing Urban Stormwater - Soils and Construction produced by Landcom (Blue Book).

A copy of the Erosion and Sediment Control Plan must be kept on site at all times during construction and made available to Council officers on request.

Erosion and sediment control measures as detailed in the submitted Erosion and Sediment Control Plan must be installed and operating **prior to and during all construction works**.

(Reason: Environmental protection)

75. DAPCC02 - Soil & Water Management during Construction

Landcom's "Managing Urban Stormwater - Soil and Conservation" August 1998 outlines the general requirements for the preparation of a soil and water management plan. All works shall be conducted in accordance with a soil and water management plan that has been submitted and approved by the Accredited Certifier **prior to the commencement of works**. A copy of the plan shall be kept on-site and made available to Council's Officers on request. All erosion and sediment control measures must be maintained in a functional condition throughout the duration of the works.

(Reason: Environmental protection)

Conditions which must be satisfied during any development work

76. DADWA01 - Burning and Burying of Waste

No materials or rubbish resulting from the land clearing, demolition and building works must be burnt or buried on the site.

(Reason: Health and amenity)

77. DADWA02 - Construction Hours

No construction or any other work related activities shall be carried out on the site outside the hours of 7.00 am to 5.00 pm Mondays to Saturdays. No work to occur on Sundays and public holidays.

Where the development involves the use of jackhammers/ rock breakers and the like or other heavy machinery, such equipment may only be used between the hours of 7.00 am - 5.00 pm Monday to Friday only.

(Reason: Safety and amenity)

78. DADWA03 - Disruption of Traffic

During any construction works on the public road that is associated with this approval, the Applicant must provide appropriate signage and traffic control facilities as per the requirements of AS 1742.3 and the RTA "Traffic Control at Works Sites" manual.

(Reason: Safety and information)

79. DADWA04 - Dust Control

Small Works

Where a dust nuisance is likely to occur, suitable screens and/or barricades shall be erected during the demolition, excavation and building works. If necessary, water sprays shall be used on the site to reduce the emission of dust. Screening shall consist of minimum 2 metres height of shade cloth or similar material secured to a chain wire fence of the like.

Major Works

The following measures must be taken to control the emission of dust:

- (a) Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work.
- (b) All dusty surfaces must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be allowed to enter the stormwater system.
- (c) All stockpiles of materials that are likely to generate dust must be kept damp or covered.

(Reason: Environmental amenity)

80. DADWA05 - Excavation - Water

All excavations must be kept free from the accumulation of water.

(Reason: Health and safety)

81. DADWA06 - Prevention of Nuisance

All possible and practical steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from windblown dust, debris, noise and the like during the demolition, excavation and building works.

(Reason: Health and amenity)

82. DADWB02 - Acid Sulphate Soils

Any excavation works carried out on site should be closely monitored to ensure no signs of Potential Acid Sulphate Soil (PASS) or Actual Acid Sulphate Soil (AASS) are observed. Indicators may include grey to greenish blue clays, unusual gold-yellow mottling or 'rotten egg' odours. If any of these indicators are observed, excavation of the site is to be stopped immediately, Council is to be notified and a suitably qualified environmental scientist should be contracted to further assess the site.

(Reason: Environmental protection)

83. DADWB03 - Construction Management Plan

All development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan.

All controls in the Plan must be maintained at all times. A copy of the Plan must be kept on site at all times and made available to the Accredited Certifier and Council on request.

(Reason: Compliance with condition of consent)

84. DADWB04 - Damage to Adjoining Properties

All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights must be observed at all times. Where damage occurs to adjoining property all necessary repair or suitable agreement for necessary repairs are to be undertaken by the applicant in consultation with, and with the consent of, the affected property owner.

(Reason: Structural safety)

85. DADWB05 - Stamped Plans

Stamped plans, specifications, documentation and the consent shall be available on site at all times during construction.

(Reason: To ensure compliance with approved plans)

86. DADWB06 - Site requirements during demolition and construction

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- (a) All demolition is to be carried out in accordance with Australian Standards AS 2601-2001.
- (b) Demolition must be carried out by a registered demolition contractor.
- (c) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out with close boarded, hardwood timber footpath protection pads. The pad shall cover the entire width of the footpath opening for the full width of the fence.
- (d) No blasting is to be carried out at any time during construction of the building.
- (e) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- (f) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- (g) Any demolition and excess construction materials are to be recycled wherever practicable.
- (h) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- (i) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in the approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- (j) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- (k) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- (l) Details as to the method and location of disposal of demolition materials (weight dockets, receipts etc.) should be kept on site as evidence of approved methods of disposal and recycling.
- (m) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- (n) Public footways and roadways adjacent to the site must be fully maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council including payment of relevant fees.
- (o) Building operations such as brick cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- (p) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.

(Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.)

87. DADWD01 - Road Opening Permit

Pursuant to Section 138 of the Roads Act, should any work on the verge, footpath, public road reserve or public reserve (open space) be required, approval will need to be obtained from Council. In this regard the Applicant is to contact Council's Customer Services Centre. A Road Opening Permit is to be obtained **prior to any works on the verge, footpath, public road reserve or public reserve being undertaken.**

Note: Road Opening Permits do not include driveway and layback construction.

(Reason: Maintain public asset)

88. DADWE01 - Arborist Inspections

Prior to the commencement of works the applicant must engage a suitably qualified and experienced arborist (Australian Qualification Framework Level 5 or above) to assess the impact of the proposed works and employ best practices (e.g. minimise compaction, soil build up and or excavation within the Primary Root Zone*) to ensure the longevity of the tree to be retained. The arborist is to attend on site during critical stages of excavation and construction works within the vicinity of tree/s to be retained and is to record the following information:

- methods of excavation or construction used to carry out the works;
- any damage sustained by the tree/s as a result of the works;
- any subsequent remedial works required to be carried out by the consulting arborist as a result of the damage; and
- any future or on-going remedial work required to be carried out to ensure the long term retention of the tree/s

* primary root zone = 10 x trunk diameter 1400mm from ground level (measured as a radius from the centre of the trunk).

(Reason: Qualified assessment of impact of works on trees to be retained)

89. DADWE02 - Protection of Landscape Features

To minimise impacts on trees to be retained, no permanent fill or storage of building materials, excavated fill or topsoil during the site works shall take place within their drip lines.

(Reason: Tree preservation)

90. DADWF01 - Noise - Construction

All works carried out on site during construction/ demolition/ excavation/ earthworks shall comply with the NSW DECC Protection of the Environment Operations Act 1997 and the DECC Noise Control Guideline - Construction Site Noise and AS 2436-1981 - "Guide to Noise Control on Construction, Maintenance and Demolition Sites" for the control of construction noise which specifies that:

- Construction period of 4 weeks and under - The L₁₀ level measured over a period of not less than 15 minutes when the construction site is operating must not exceed the background level by more than 20 dB(A).
- Construction period greater than 4 weeks and not exceeding 26 weeks - The L₁₀ level measured over a period of not less than 15 minutes when the construction site is operating must not exceed the background level by more than 10 dB(A).
- Silencing - All possible steps should be taken to silence construction site equipment.

Should complaints of a noise nuisance be justified, Council will require the acoustic treatment of the identified noise source/s to ensure compliance with Councils requirements on noise. An acoustic assessment & report will be required to ensure that the intrusive noise from the plant does not exceed 5 dB (A) above the background noise.

Should complaints of a noise nuisance be justified, Council will require the acoustic treatment of the premises to ensure compliance with the NSW DEC Industrial Noise Policy. A further acoustic assessment & report will be required to be provided to Council assessing the premises in working order.

(Reason: Noise Attenuation)

91. DADWF02 - Noise - Plant

All works carried out on site during construction/demolition/excavation or earthworks shall comply with the NSW DECC Protection of the Environment Operations Act 1997. Approved and effective silencing measures shall be provided and maintained on all power-operated plant used on site.

(Reason: Safety and Amenity)

92. DADWF03 - Noise & Vibration

The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby occupations. Special precautions must be taken to avoid nuisance in neighbouring residential areas, particularly from machinery, vehicles, warning sirens, public address systems and the like.

In the event of a noise or vibration problem arising, the person in charge of the premises must, when instructed by City of Canada Bay Council or the Accredited Certifier, cease work and carry out an acoustical survey and/or investigation by an appropriate acoustical engineer or consultant and submit the results to Council. The person in charge of the site must implement any or all of the recommendations of the consultant and any additional requirements of Council. Any requirements of Council in this regard must be complied with immediately.

(Reason: Noise attenuation)

93. DADWG01 - Obstruction of Road or Footpath

The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste bins or any other matter is not permitted unless approved in accordance with Council's Waste Skip Bin Policy. A Penalty Infringement Notice may be issued for any offence.

(Reason: Protection of infrastructure, safety & information)

94. DADWG02 - Protection of Public Places

If the work involved in the demolition or construction of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the closure of a public place, a hoarding or fence shall be erected. Hoardings shall be erected to comply with the requirements of WorkCover and the Principal Certifying Authority.

(Reason: Safety)

95. DADWH01 - Compliance with Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia. **Note:** Applicants who have lodged an objection and who have been granted exemption under clause 187(6) & 188(4) of the *Environmental Planning and Assessment Regulation 2000*, must comply with the Building Code of Australia in all other respects.

(Reason: Prescribed statutory control)

96. DADWH02 - Critical Stage Inspections - General

Critical stage inspections must be called for by the Principal Contractor or Owner Builder as required by the Principal Certifying Authority (PCA), any PCA Service Agreement, the Act and the Regulation.

Work must not proceed beyond each critical stage until the PCA is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the Act. 'Critical Stage Inspections' means the inspections prescribed by the Regulations for the purposes of section 109E(3)(d) of the Act or as required by the PCA and any PCA Service Agreement.

Note 1: The PCA may require additional inspections beyond mandatory critical stage inspections in order that the PCA be satisfied that work is proceeding in accordance with this consent.

Note 2: The PCA may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.

(Reason: Statutory requirement)

97. DADWH05 - Critical Stage Inspections for Building Work (Classes 5, 6, 7, 8 or 9)

Where applicable inspections of the development site may be required to be undertaken at the following stages:

- (a) Prior to covering any stormwater drainage connections; and
- (b) After the building work has been completed and prior to any occupation certificate being issued in relation to the building;
- (c) Other.

If the person having the benefit of the development consent appoints Council as the PCA, Council will give written advice as to what critical stage inspections apply.

Prior to issuing an occupation certificate or subdivision certificate the PCA must be satisfied that the work has been inspected on the above occasions.

Except as provided by subclause (c), the inspections may be carried out by the PCA or, if the PCA agrees, by another certifying authority.

The final inspection detailed at subclause (c) may only be carried out by the PCA.

For each inspection the principal contractor (*or owner-builder*) must notify the PCA at least forty eight (48) hours in advance that the site is ready to be inspected prior to the commencement of work on the next stage.

(Reason: Statutory Requirements)

98. DADWH06 - Inspection Records & Compliance Certificates

The PCA or accredited certifier undertaking each of the inspections must make a **record of each inspection** in accordance with Clause 162B of the Environmental Planning and Assessment Regulations 2000 and, if the person is not the PCA, forward a copy to the PCA.

A copy of any **compliance certificates** issued in respect of the building work and any documents referred to in the certificate must be provided to Council within two (2) days of the certificate being issued.

A compliance certificate must be issued where:

- (a) Either:
 - (i) Council is appointed the PCA; or
 - (ii) Council is the PCA but agrees to an accredited certifier undertaking certain inspection/s, and
- (b) The PCA or accredited certifier is of the opinion that the stage of work he or she has inspected is satisfactory.

(Reason: Statutory Requirement)

99. DADWI01 - Progress Survey - Major Development (greater than two stories)

In order to ensure compliance with approved plans, a Survey Certificate, prepared to Australian Height Datum, shall be prepared by a Registered Surveyor showing the following:

- (a) At the completion of excavation, prior to the placement of any footings, showing the completed level of the excavation and its relationship to the boundaries;
- (b) Prior to placement of concrete, the ground floor level, showing the level of the form work and its relationship to boundaries including relevant footpath and roadway levels;
- (c) Prior to placement of concrete at each second floor level showing the principal level of the formwork and the intended relationship of the completed works to the boundary;
- (d) Prior to roofing, or completion of the highest point of the building, showing the anticipated level of the completed work and the relationship to the boundary; and
- (e) At completion, works showing the relationship of the building to the boundary.

Progress certificates in response to points (a) through to (e) shall be produced to the Council or the Principal Certifying Authority at the time of carrying out relevant progress inspections. Under no circumstances will work be allowed to proceed should such survey information be unavailable or reveals discrepancies between the approved plans and the proposed works.

(Reason: To ensure compliance with approved plans)

Conditions which must be satisfied prior to the issue of any Occupation Certificate relating to the use of the building or part

100. DAOCA01 - Food Premises - Final Inspection

Prior to the issue of an Occupation Certificate, the food premises shall be inspected by Council's Environmental Health Officer to determine compliance with applicable food legislation.

(Reason: To ensure registration of the food premises)

101. DAOCB01 - Certification of Engineering Works

Prior to occupation, the following documents must be submitted to the Principal Certifying Authority. These documents are:

- a) A Certificate from a suitably Qualified Engineer, with Corporate Membership standing in the Institution of Engineers, Australia, and registered on the National Professional Engineers Register (NPER) under the appropriate professional category, and
- b) A "Work - As - Executed" plan of the engineering and/or drainage works.

The abovementioned Certificate is to certify that:

- (i) the stormwater drainage system, and/or
- (ii) the car parking arrangement and area, and/or
- (iii) any related footpath crossing works, and/or
- (iv) the proposed basement pump and well system, and/or
- (v) the proposed driveway and layback, and/or
- (vi) other civil works have been constructed in accordance with the approved plans and details, satisfies the design intent and complies with appropriate SAA Codes relevant Standards and Council's Policies and Specifications.

For major works, such as subdivisions, works within the road reserve (requiring separate S138 approval) and as where specified by Council, a Part 4A Certificate will be required. It is strongly recommended that the Engineer supervise the works.

Where Council is not the Principal Certifying Authority, two (2) copies of the above documents are to be provided to Council **prior to the issue of any Occupation Certificate**. These documents are to be retained on Council's Construction Certificate file.

(Reason: Asset management)

102. DAOCD01 - Occupation Certificate (section 109M of the Act)

A person must not commence occupation or use (*or change of use where an existing building*) of the whole or any part of a new building (within the meaning of section 109H (4) of the Act) unless an Interim Occupation Certificate or Final Occupation Certificate has been issued in relation to the building or part.

The Principal Certifying Authority is required to be satisfied, amongst other things, that:

- All required inspections (including each applicable mandatory critical stage inspection) have been carried out; and
- Any preconditions to the issue of the certificate required by a development consent have been met.

Note: New building includes an altered portion of, or an extension to, an existing building.

(Reason: Statutory requirement)

103. DAOCE01 - Drainage System - Maintenance of Existing

Where elements of the existing drainage system is to be utilised, the existing drainage system shall be overhauled and maintained clear of silt and accumulated debris. Silt and the like shall be *removed*, not flushed from the system.

A certificate shall be provided by a suitably qualified person to the satisfaction of the Principal Certifying Authority, (a registered plumber or a person of equivalent or greater experience or qualification) **prior to the issue of an Occupation Certificate** to confirm that the system is in good working order and adequate to accept additional flows.

(Reason: Maintenance and environment)

Conditions which must be satisfied prior to the issue of any Subdivision Certificate

104. DASCA02 - Electricity substation - Dedication as road and/or easement for access

Where an electricity substation is provided on the site adjoining the road boundary, the area within which the electricity substation is located must be dedicated as public road, free of cost to Council. The size and location of the electricity substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors shall not intrude onto public road (footway or road pavement).

Where access to the electricity substation is required from a public place and across the site, an easement for access across the site from the public place must be created upon the final plan of subdivision burdening the subject site and benefiting the Crown in right of New South Wales and any Statutory Corporation requiring access to the electricity substation.

The above details must be included on the final plan of subdivision **prior to the release of the Subdivision Certificate**.

(Reason: Formalisation of access to utility)

105. DASCA05 - Section 73 Certificate from Sydney Water

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained before the issue of the Subdivision Certificate. **Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92.**

Following application a "Notice of Requirements" will be forwarded detailing 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.

Sydney Water written advice that you have obtained the Notice of Requirements must be submitted to the Accredited Certifier **before the issue of the Construction Certificate.**

(Reason: To comply with statutory requirements)

Conditions which must be satisfied prior to the issue of a Final Occupation Certificate

106. DAFOA01 - Fire Safety Certificate

A final Fire Safety Certificate shall be obtained in accordance with Part 9, Division 4 of the Environmental Planning and Assessment (Amendment) Regulation 2000, **prior to the issue of the Final Occupation Certificate** for the building.

A copy of the Fire Safety Certificate and fire safety schedule shall be:-

1. Forwarded to City of Canada Bay Council;
2. Forwarded to the Commissioner of the New South Wales Fire Brigade; and
3. Prominently displayed in the building.

(Reason: Fire safety)

107. DAFOA02 - Certificate of Test of Mechanical Ventilation

On the satisfactory completion of work and **prior to the issue of an Occupation Certificate**, a Certificate of Test of Mechanical Ventilation shall be supplied to the Principal Certifying Authority from an approved mechanical ventilation engineer.

(Reason: To ensure compliance with approved plans)

108. DAFOB01 - Covenant - "Seniors Living"

Prior to occupation of the premises, a covenant prepared pursuant to Section 88E of the Conveyancing Act shall be placed on the title of the land occupied by the "Seniors Living" development to prohibit the occupation of the premises by residents other than:

- Persons over 55 years of age; or
- Persons of any age who as a result of having mental, physical or sensory impairment, either permanently or for an extended period have substantially limited opportunities to enjoy a full and active life.

(Reason: Compliance)

109. DAFOB03 - Health Compliance - Final inspection

Prior to the issuing of a Final Occupation Certificate, the premises shall be inspected by an Authorised Officer of Canada Bay Council under the Public Health Act 2010 to determine compliance with the *Public Health Act 2010*, *Public Health Regulation 2012*, and NSW Health Department Skin Penetration - Code of Best Practice.

(Reason: Compliance with relevant legislation, guidelines and codes)

110. DAFOB05 - Wash down of Brickwork

Prior to occupation or use, the brickwork shall be thoroughly cleaned down on all sides. All necessary precautions shall be taken to ensure that this work does not affect neighbouring properties.

(Reason: Visual amenity and environmental health)

111. DAFOC01 - Arborist's Report - Follow up

As part of the on-going assessment of the tree/s to be retained, the consulting arborist engaged by the applicant is to assess their health and any impacts suffered by them as a result of the proposed approved development. Findings are to be compiled in a detailed report to be provided to the satisfaction of the Principle Certifying Authority at the completion of construction and **prior to issue of the Final Occupation Certificate** which documents the following:

- methods of excavation or construction used to carry out the works;
- any damage sustained by the tree/s as a result of the works;
- any subsequent remedial works required to be carried out by the consulting arborist as a result of the damage and
- any future or on-going remedial work required to be carried out to ensure the long term retention of the tree/s

(Reason: Ensure survival of trees to be retained)

112. DAFOE01 - Certification of the Constructed Stormwater Drainage System

The constructed stormwater system shall be certified by a suitably qualified person, in accordance with Council's "Specification for the Management of Stormwater", **prior to issue of the Final Occupation Certificate**.

(Reason: Adequate stormwater management)

113. DAFOE02 - Covenant & Restriction as to User for Stormwater Controlled Systems

Prior to the issuing of a Final Occupation Certificate, the Applicant shall register a Positive Covenant and a Restriction as to User, under section 88E and or section 88B of the Conveyancing Act as appropriate in favour of Council ensuring the ongoing retention, maintenance and operation of the stormwater facility (on-site detention, pump-out, charged lines, etc.).

Easement Registration

Where any drainage line or service conduit is to traverse any property other than that which it serves, an appropriate easement will be required. In this case, the applicant shall register an easement not less than 1200mm wide over the proposed drainage line or service concurrently with any subdivision registration.

The wording on the 88B Instrument is to make reference to the Council file where the Construction plans and the "Work-as-Executed", (as built), plans are held. Typical wording can be obtained from Council's "Specification for the Management of Stormwater" document.

(Reason: Compliance and adequate maintenance of drainage system)

114. DAFOE03 - OSD Identification Plate

Prior to issue of a Final Occupation Certificate, the applicant shall install an identification plate near or onto the control structure of the OSD system, this is to advise the registered proprietor of their responsibility to maintain the OSD facility and not to tamper with it in any manner without written consent.

The applicant can obtain the OSD identification plate from the Council at a cost.

(Reason: To ensure that the OSD system is installed and identified in accordance with this approval)

Conditions which must be satisfied during the ongoing use of the development

115. DAOUA01 - Amplified Music

Music and other amplified sound played on the premises shall not give rise to offensive noise as defined under the provisions of the Protection of the Environment Operations Act 1997. In addition, the sound level output shall not exceed 5 dB(A) above the ambient background level at the received boundary.

(Reason: Environmental amenity)

116. DAOUA06 – Deliveries/Waste Collection

All deliveries (including waste collection) must not occur prior to 7am or after 8pm every day.

The collection of waste from the Millar Street waste collection bay shall be carried out in accordance with details outlined in letter prepared by JBA Urban Planning Consultants Pty Ltd, Ref. MO/YC 13268, dated 27 October 2015, including but not limited to:

- The waste collection truck shall enter the site and park behind the sliding gate
- The sliding gate must be in a closed position prior to the loading of waste onto the truck
- The sliding gate to the dock must be in a closed position at all times except for truck/vehicular access
- Trucks must enter and exit in a forward direction
- Vehicular movements utilising the Millar Street waste collection bay is limited to six (6) per week
- Bins are to be kept within the basement storage area at all times except when being transported to the waste collection bay for immediate removal from the site

(Reason: Protect amenity of surrounding property)

117. DAOUA07 - Flashing Lights

No flashing, moving or intermittent lighting, visible from any public place may be installed on the premises or external sign associated with the development.

(Reason: Environmental protection)

118. DAOUA10 - Hours of Business Operation

The hours of operation are restricted to between:

- 24 hours, seven (7) days a week.

(Reason: Ensure business operates between approved hours)

119. DAOUA12 - Maximum Number of Staff

A maximum number of (56) staff are permitted to work on the premises at any one time. Any increase in this number shall be subject to the further written consent of Council.

(Reason: Environmental Amenity)

120. DAOUA13 - Lighting Nuisance

The use of floodlighting or the like, to advertise or attract attention or for the convenience of patrons must be controlled so as not to cause any distraction or disturbance to nearby or adjacent residents, pedestrians or motorists. The use of flashing lights is strictly prohibited.

(Reason: Environmental amenity)

121. DAOUA14 - Loading

All loading and unloading operations shall be carried out wholly within the confines of the site, at all times. All delivery vehicles shall enter and leave the site in a forward direction.

(Reason: Adequate servicing)

122. DAOUA22 - Operational Plan of Management:

A final Operational Plan of Management is to be formulated and submitted to Council for approval **prior to the issue of a Construction Certificate**. The Plan shall be dated and the name and signature of the author of the document shall be included. The Plan of Management shall be displayed in prominent locations within the premises. The Manager shall be responsible for ensuring that the terms of the Plan are adhered to at all times.

This Operational Plan of Management must incorporate the following:

- (a) All the measures to be implemented on the premises in terms of safety & security, amenity and health including but not limited to matters relating to curfews and after-hours access, bringing of visitors on to the site, drug and alcohol policy (including smoking), and use of communal areas etc; and
- (b) All the responsibilities of the Manager; and
- (c) An Incident Register shall be maintained by the Caretaker. This Register must be produced upon demand by any Council officer or NSW Police Officer. The Register must contain a direction that all incidents of a criminal nature are to be reported to the Police immediately; and
- (d) Prior to commencement of the residential aged care facility use, a notification letter shall be forwarded to Council, the Police and neighbours providing contact details for the Manager so that any issues regarding the operation of the premises etc can be addressed promptly. Evidence of this letter being forwarded as required in this condition shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate and commencement of the use.
- (e) The Plan of Management referred to in this condition shall be reviewed by Council annually from the date of the issue of an Occupation Certificate by the Principal Certifying Authority. The operator of the residential aged care facility shall contact Council annually to carry out this review and the review shall include the Incident Register referred to in point (3) above. Should amendments be made to the Plan of Management an updated version of same shall be provided to Council and the residents of the boarding house within one (1) month of the annual review being completed.

(Reason: To minimise the impact of the use on surrounding residences)

123. DAOUB01 - Annual Fire Safety Statement

Pursuant to Part 9, Division 5 of the Environmental Planning and Assessment Regulation (as amended) the owner of the building shall furnish Council with an Annual Fire Safety Statement from a competent person so as to certify the essential fire safety measures in the building. The Annual Fire Safety Statement shall be within 12 months of the issue of the fire safety certificate, and then on an annual basis.

A copy of the Fire Safety Statement obtained and Fire Safety Schedule shall also be:-

- 1. Forwarded to the Commissioner of the New South Wales Fire Brigade; and
- 2. Prominently displayed in the building

(Reason: Fire safety)

124. DAOUC05 - Microbial Control

The installation and ongoing operation of the water cooling systems, evaporative coolers and hot/warm water systems within the premises shall be undertaken in accordance with the relevant provisions of:

- Public Health Act 2010 and Regulations
- Australian Standard AS/NZS 3666 - Air Handling and Water Systems of Buildings - Microbial Control, Parts 1, 2 & 3 of 2011; and
- 2004 NSW Health Code of Best Practice for the Control of Legionnaires Disease.

(Reason: Health and safety)

125. DAOUC06 - Noise, Air or Water Pollution - Protection of the Environment Operations Act 1997

The activities carried out on site shall not constitute a nuisance in relation to noise, air or water pollution as specified under the Protection of the Environment Operations Act 1997.

(Reason: Environmental protection)

126. DAOUC12 - Acoustic Assessment

All recommendations contained in the Noise Impact Assessment report prepared by *Acoustic Logic, Project No. 20140442.1, Document Ref. 20140442.1/2710A/R1/BW, dated 27 October 2014* shall be adopted, implemented, and adhered to. Any changes made to the proposal that would alter the acoustic assessment will require a further acoustic assessment and a copy of this further report shall be provided to Council prior to the commencement of works on the site or the commencement of the use.

(Reason: Noise Control and Amenity)

127. DAOUC17 - Noise Complaints Relating to Use or Equipment

Following occupation of the Aged Care Facility and installation of mechanical plant, should substantiated complaints or breaches of noise regulations occur, a suitably qualified acoustic consultant shall be engaged, with the Council and the operator/owner of the premises agreeing on the acoustical consultant, to measure noise emanating from the building/premises and to recommend appropriate action. The reasonable cost of such appointment shall be borne by the operator/owner and any works recommended by the acoustic consultant shall also be borne by the operator/owner and carried out within a time frame set by Council.

(Reason: Amenity and Noise Control)

128. DAOUC19 - Compliance with Noise Control Legislation

The applicant shall ensure that all activities within the premises comply with the relevant sections of the Protection of the Environment Operations Act 1997 and Regulations; the NSW Environment Protection Authority Industrial Noise Policy (2000) and relevant Australian Standards on Noise Control on Construction, Maintenance and Demolition Sites.

(Reason: Noise Control and Amenity)

129. DAOUD04 - Australia Post Guidelines

Mail deliveries are to be in accordance with Australia Post Guidelines, as set out in the Australia Post publication "General Post Guide - September 2007". A copy of this Guide can be obtained from Australia Post's web page at www.auspost.com.au. A copy of the brochure may be obtained from Australia Post. In general, a clearly marked mailbox (or group of mailboxes) shall be provided within 500mm of the footpath alignment.

(Reason: To ensure compliance with mail delivery regulations)

130. DAOUE02 - Bottle, Can or Garbage Disposal

No bottle, can or garbage disposal shall take place between the hours of 8.00pm and 7.00am daily.

(Reason: Disturbance and public interest)

131. DAOUE12 - Environmental Health & Safety - Special/Non-Standard Conditions

Food Premises

The construction and operation of the food premises shall comply with all applicable legislation/regulation and standards, including:

- NSW Food Act 2003
- NSW Food Regulation 2004
- Food Standards Australia and New Zealand - Food Standards Code 2001
- Relevant Australian Standards for Design, Construction and Fit out of Food Premises
- Mechanical ventilation - Australian Standard 1668 set.

Food Business - Notification

Prior to occupation the NSW Food Authority must be notified of food business/s as per the requirements of Food Safety Standard 3.2.2 Division 2 Section 4 Notification. This requirement is to be met by notifying through the following website:
www.foodnotify.nsw.gov.au <<http://www.foodnotify.nsw.gov.au>>

Deliveries and Waste Collection

- All deliveries, including waste collection must not occur:
 - o Prior to 8am or after 6pm Monday - Friday;
 - o Saturdays or Sundays at any time.

Storage of waste

- Waste must be managed and maintained in accordance with the following:
 - o Waste receptacles must be stored within the approved waste storage area only.
 - o Waste receptacles must be presented on the day of collection only and promptly return to the approved waste storage area following collection.
 - o Waste must not exceed the maximum capacity of the bin. I.e. the lids must be capable of closing.
 - o Waste receptacles are cleaned on a regular basis.
 - o Waste receptacles and waste storage room maintained to a standard that does not give rise to offensive odours.

Unexpected finds

Excavation works carried out onsite should be closely monitored to ensure no signs or evidence of contamination. Where evidence of contamination is identified:

- Excavation of the site is to be stopped immediately;
- A suitably qualified environmental consultant is to be contracted to further assess the site; and
- Council is to be notified of the proposed remedial action plan.

Hydrotherapy Pool - Notification & Operation

The installation and ongoing operation of the hydrotherapy pool must comply with the requirements of NSW Public Health Act 2010 and its regulations.

Council is to be notified of the hydrotherapy pool prior to its use as per the requirements of NSW Public Health Act 2010.

Microbial Control - Notification

Council is to be notified of water cooling and/or warm water system/s installed on the premises. Notification must be in accordance with the requirements of the NSW Public Health Act 2010.

Prior to demolition

Hazardous Materials Survey

- Hazardous material survey is to be undertaken by a suitably qualified and experienced environmental consultant prior to commencement of demolition. Recommendations specified as a result of the survey are to be adopted and adhered to throughout demolition works.

Prior to issue of Construction Certificate

Further acoustic assessment

- A further acoustic assessment is to be undertaken to assess noise impact of mechanical plant including but not limited to car-park supply and exhaust fans, air conditioning equipment, pool filtration equipment, kitchen mechanical ventilation systems and any other mechanical plant likely to cause a noise nuisance. The assessment must specify at a minimum:
 - o The operational noise of each of the above listed mechanical plant, and their ability to comply with relevant policies and legislation including but not limited to the NSW EPA Industrial Noise Policy 2000 and NSW Protection of the Environment Operations Act 1997.
 - o Noise attenuation works required to assure mechanical plant operates in accordance with applicable noise legislation.
- A copy of the above required acoustic assessment is to be furnished to Council.
- All recommendations provided within the acoustic assessment are to be adopted, implemented and adhered to.

(Reasons: Environmental Health and Safety)

Advisory Notes

1. DAANN01 - Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au <<http://www.1100.com.au>> or telephone 1100 before excavating or erecting structures. (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.



Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's mobile network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800 810 443.

2. DAANN02 - Dividing Fences

The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fence/s under this consent.

Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of or payment for the erection of dividing fences.

If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre or if legal advice or action is required, you may contact the Chamber Magistrate.

3. **DAANN04 - Lapsing of Consent**

In accordance with Section 95 of the Environmental Planning and Assessment Act 1979 (as amended), this Development Consent lapses five (5) years after the date from which it operates unless building, engineering or construction work has physically commenced. **A Construction Certificate must be obtained and the works commenced in accordance with the approved plans and specifications within five (5) years from the date of this Development Consent.**

4. **DAANN06 - Process for Modification**

The plans and/or conditions of this Consent are binding and may only be modified upon written request to Council under Section 96 of the Environmental Planning and Assessment Act, 1979 (as amended). The request shall be accompanied by the appropriate fee and application form. You are not to commence any action, works, contractual negotiations, or the like, on the requested modification unless and until the written authorisation of Council is received by way of an amended consent.

5. **DAANN07 - Review of Determination**

In accordance with the provisions of Section 82A of the Environmental Planning and Assessment Act 1979(as amended) the applicant can request Council to review this determination. The request must be made within a period of 6 months from the date shown on this determination. A fee, as prescribed under Council's current Management Plan - Fees and Charges, is payable for such a review.

6. **DAANN08 - Right of Appeal**

Section 97 of the Environmental Planning and Assessment Act 1979 (as amended), gives the applicant the right to appeal to the Land and Environment Court within six (6) months after the date on which you receive this notice. Section 97 does not apply to the determination of a development application for State significant development or local designated development that has been the subject of a Commission of Inquiry.

7. **DAANN10 - Skips on Council Footpath**

The applicant must apply to Council's Customer Services Centre and pay the respective minimum ten (10) day application fees and deposit, should a mini-skip type or larger builder's waste container be required to be left on Council's footpath, nature strip or roadway for the removal of any builder's waste etc. These fees must be paid prior to the container's placement. In the event of the container being removed within the ten day period, and the Council being notified, a pro-rata refund will be made. If the container is to remain at the site for longer than ten days, a further fee must be paid before the ten day period expires. No consultation is necessary if placing the container within the property to which this application is related. However, caution should be exercised in placing the bin to ensure no damage occurs to Council property.

8. **DAANN11 - WorkCover Requirements**

The Work Health and Safety Act 2011 and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

Further information can be obtained from WorkCover NSW's website at

[http://www.workcover.nsw.gov.au/newlegislation2012/your-](http://www.workcover.nsw.gov.au/newlegislation2012/your-industry/construction/Pages/default.aspx)

[industry/construction/Pages/default.aspx](http://www.workcover.nsw.gov.au/newlegislation2012/your-industry/construction/Pages/default.aspx) or through their head office: WorkCover NSW, 92-

100 Donnison Street, GOSFORD 2250 Postal address: WorkCover NSW, Locked Bag 2906,
LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.