

HERITAGE MEMORANDUM
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To: Jonathan Goodwill

From: Robyn Conroy

Re: 25, 25A and 27 Bushlands Avenue GORDON NSW

Proposal: Aged Care Facility on the site of a heritage item plus in the vicinity of a heritage item and HCA

Date: 20 November 2016, rev.2 February 2017

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## **1.0 BACKGROUND**

### **1.1 Proposal**

- Demolition of two houses at 25A and 27 Bushlands Avenue. Retention of the house and part of the garden of Birralelee at 25 Bushlands Avenue.
- Demolition of gardens and removal of trees (part)
- Consolidation of lots.
- Erection of a 3 level residential aged care facility (two levels of accommodation over a basement carpark) over the development site.

Heritage comments were provided re the original application on 25 April 2016. Following this, several meetings have been held with the applicant and Council to discuss the issues arising from the application.

Amended plans have now been submitted and are the subject of this report. No amended Statement of Heritage Impact was submitted, but the heritage issues have been addressed in the letter dated 14 October 2016 submitted by Evolution Planning submitted with the amended plans. This report addresses the application as amended.

It should also be noted that the property is no longer subject to an Interim Heritage Order (IHO). The property (including both house and garden) is now listed as a locally significant heritage item on the Ku-ring-gai LEP 2015, meaning that part of the development (within the current lot boundary of 25 Bushlands Avenue) is now on the site of a heritage item and the remainder of the development is in the vicinity of the item. The whole development site is also in the vicinity of the St John's Avenue Heritage Conservation Area (HCA).

Note that the references to Birralelee in this report are not limited to the house. They include the whole of the listed curtilage (house and garden).

### **1.2 The streetscape setting**

Bushlands Avenue slopes gently away from the ridgeline of the Pacific Highway, with the development site set on a relatively level section approximately mid-way between the Highway and Ormiston Avenue. Verges are soft, with a formed footpath and kerbing on the northern side only. Street planting includes jacarandas and other street trees characteristic of the Gordon area.

The streetscape of Bushlands Avenue is typical of the pattern of development in Gordon, with detached Federation, Bungalow and later homes set in substantial and mature gardens. Street views are generally directed by the planting on verges and along front boundaries but views over the houses are readily available from openings such as driveway and path entrances and through/across front gardens. The roofscape views are set against a backdrop of tall eucalypts that have survived in the back gardens of many properties from the remnant forest.

Some re-subdivision has occurred over the years, but the pattern is for the most part discreet and has not impacted on the rhythms of the streetscape, with gardens continuing to dominate streetscape views.

St Johns Avenue runs roughly parallel to Bushlands Avenue to the north. Its streetscape is intimate in character due mainly to the narrow carriageway and mature avenue planting of brushbox. The land falls towards Bushlands Avenue and roofscape views over the houses on the southern side (abutting the rear of houses to Bushlands Avenue are enclosed by the same tall forest trees that are visible from Bushlands Avenue.

### **1.3 The site**

The site is located on the northern side of Bushlands Avenue and extends over three properties. Each is a detached dwelling surrounded by garden, with the front setback containing mainly exotic species and the rear by remnant turpentine forest. These forest trees rise high above the roofs of houses and play an important role in softening views over the properties, allowing roofscapes to read clearly against the green backdrop.

25 Bushlands Avenue (the heritage item) is a very good example of the Federation Bungalow in a high quality garden setting. Both house and garden are mature and read as substantially intact. The house is set on a wide lot and was evidently planned to take full advantage of its garden setting, with verandahs to each elevation. The surrounding garden includes a tennis court, swimming pool and detached garage. Views from the street are of high quality and generous in their scope due to the wide frontage which allows the house to be read against its vegetated backdrop as the viewer moves along Bushlands Avenue. The aesthetic depth and spatial quality of the house in its setting is facilitated by the width of the side garden area.

The other readily available view over the property from the street is to the western end near the driveway entrance, the foreground of this view including a cascade of manicured traditional shrubs.

The house itself reads as surrounded by this vegetation and framed by the tall trees behind, with no other built forms readily visible in the view other than the modestly scaled and well-hidden elevation to 25A at the rear and the side elevation of 23 Bushlands Avenue to the east.

The site of 25A Bushlands Avenue was formed by the re-subdivision of 25 and 27 to create a semi-battle-axe lot between and to the rear. It is a modestly scaled c1970s bungalow nestled under the tall forest trees. Views of the house from the street are limited, with the low scale and dark earth colours of the brickwork and roof allowing it to blend successfully into the background. A notable feature closer to the street is the garden beds of roses beside the driveway adjacent to no.25, which make a positive contribution to the setting of the Heritage Item.

27 Bushlands Avenue was also built in the early 20<sup>th</sup> century but its aesthetic integrity has been affected by a more recent ‘pop top’ roof addition. It is also on a large lot that extends to the rear of the properties along St Johns Avenue. The garden is well-planted and includes many mature trees including original turpentines and other Ku-ring-gai bushland species.

#### **1.4 Issues with submitted drawings and information**

- The amended DA drawings (elevations) show only the part of the building closest to the ‘viewer’ clearly, the main bulk of the new building being rendered in very pale grey, making it difficult to determine the actual proposed profile of the building without careful inspection.
- The Statement of Heritage Impact submitted refers to the wrong DCP (DCP 2012 Town Centres) and does not include any assessment of ‘vicinity’ impacts including the requirement for setbacks between buildings on the site of Items or in a HCA. This was noted in the original heritage comments but no revised assessment under the applicable heritage controls is understood to have been submitted.

### **2.0 Heritage**

#### **2.1 Statutory context**

The proposed development is within the area covered by the Ku-ring-gai LEP 2015. Its statutory heritage status is complex.

- The property at 25 Bushlands Avenue is a locally significant heritage item in the Ku-ring-gai LEP 2105. The identified curtilage of the item extends over the whole of the property and includes both house and garden.
- The new building and ancillary development extends well into the curtilage of the item, with most of the eastern wing, part of the middle wing, the tea house and part of the excavated basement area together with landscaping and fencing to be built within the curtilage of the Item.
- 25A and 27 Bushlands Avenue are not heritage items but are ‘in the vicinity of’ the item.
- All three lots are also ‘in the vicinity of’ (abut) the St Johns Avenue Conservation Area (C16A).
- The development is prohibited in the R2 zone in KLEP 2105 and relies on the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 for permissibility.
- The heritage impacts of the proposed development must be both assessed on merit and under the provisions of Part 20 of the Ku-ring-gai DCP 2015 (heritage).

#### **2.2 The heritage significance of 25 Bushlands Avenue**

The heritage significance of the property 25 Bushlands Avenue was assessed for Council by an independent heritage consultant, Kate Higgins, using the NSW Heritage Council’s adopted criteria for the assessment of significance. Birralea (both house and garden) was found to demonstrate historic, aesthetic and social heritage values and to be a good representative example of suburban development in the Federation period, the house being a representative example of a large Federation Bungalow style house with a garden representative of the setting of such houses.

The whole of the existing site is listed on the LEP in recognition of these heritage values.

It was assessed as being historically significant because:

- *[It] provides evidence of the growth of Ku-ring-gai during the years following the Federation of Australia and the start of World War 1. This was the first stage of suburban residential subdivision and housing construction which followed the provision of infrastructure such as the railway, water and electricity, and demonstrates the popularity of “healthy” suburban living following the bubonic plague in the inner city areas of Sydney. Birralelee makes a noteworthy contribution to an understanding of the history of the area in the early twentieth century, and of the promulgation of town planning ideas which saw industry and other places of employment separated from residential living areas.*
- *The property typifies the ideals of suburban living with the large site allowing for free air-circulation and large healthy gardens (with tennis court), around a suburban bungalow. The regard for the Australian bush is evident in the continual retention of endemic trees at the rear of the property. English landscape ideas are evident in the garden with its specimen trees and planting beds set in expansive lawns.*
- *The driveway, which serviced a garage present by 1929, demonstrates the rapid take-up, especially by the middle class, of the motor car in the first part of the twentieth century, with the car eventually becoming inseparable from suburban living.*

It is also of aesthetic significance because:

- *No. 25 Bushlands Avenue has high aesthetic values. Birralelee, built c. 1915 is a fine example of a Federation Bungalow style house retaining most of its original form and details. Birralelee exemplifies the design of large bungalows fashionable at the time of its construction and displays in a minor way the influence of the Californian bungalow on the Federation style just prior to World War 1. The conservative design of the house reflects the middle class conservatism of suburban Gordon at the time of Birralelee’s construction.*
- *Birralelee, originally single storey, has a large spreading slate roof supported by warm red/brown face brickwork walls set on a sandstone base. The main roof is a large transverse gable with the rough cast and timber batten gables facing the side boundaries. The bulk of the house and its basic rectangular shape is broken up by gable roofed wings which extend towards the front and side of the house, and by verandahs at the front of the house that also provide visual delight with their detailing and shadows. The tall rough cast chimneys topped by terracotta chimney pots add to the character of the house providing a vertical counterpoint to the horizontal lines of the roof ridges and sloping lines of the gables. The verandahs are supported by pairs of timber tapered posts set on sandstone bases. The good timber workmanship is also evident in the bay window of the front façade, other windows, timber fire places surrounds and other internal joinery.*
- *The well-established garden is also attractive and retains key features of the original garden such as an extensive lawn, specimen tree plantings, garden beds, a tennis court and driveway. The garden provides an appropriate setting for Birralelee.*
- *The house and its garden make an important contribution to the Bushlands Avenue streetscape.*

Birralelee’s social heritage values were not investigated in detail. The assessment noted that the property appears not to be of special importance to a particular community group, but also noted that the placing of an Interim Heritage Order on the property following request by the local

community indicates that the place is important to the community's sense of place, the community being that of the Ku-ring-gai Local Government Area.

The property's heritage significance was summarised as:

*No. 25 Bushlands Avenue has local heritage significance as part of the first wave of residential suburban development undertaken in the area prior to World War 1, an important phase of the growth of the Ku-ring-gai Local Government Area when rural lands were being subdivided for housing. The development of No. 25 Bushlands Avenue demonstrates the popularity of suburban living, made possible due to the provision of public infrastructure to support the growth of suburbs such as Gordon, away from the inner city which was seen as being unhealthy, overcrowded and dissolute. Birralelee, built c. 1915 and highly intact, is a fine example of a Federation Bungalow style house retaining most of its original features. The attractive garden of Birralelee retains key features of the original garden and demonstrates the strong links between Federation houses and their gardens. The garden provides an appropriate setting for the Birralelee.*

The Statement of Heritage Significance submitted with the application also included an assessment of the significance of 25 Bushlands Avenue (see below). It identified historic, associational and aesthetic values, and offered the following draft summary of significance:

*Birralelee, at 25 Bushlands Avenue Gordon (Lot 3; DP 578395), has aesthetic significance as a representative example of a Federation period bungalow constructed c.1915, which is mostly intact and in good condition. The place has historical association significance as the home of Sir Robert Christian Wilson a member of the NSW Legislative Council for 12 years from 1949-1961. (SoHI, p.49)*

The heritage significance of the St Johns Avenue Heritage Conservation Area (HCA C16A; KLEP 2105) is summarised as:

*St Johns Park Estate is of heritage significance for its intact Federation and Interwar period housing, its dramatic streetscape derived from the narrow paved carriageway, wide grassed verges and mature brush box avenue planting, as the first paved road in Ku-ring-gai, and for its association with and the heritage significance of St Johns Church, manse and cemetery, which encompass significant historical and social values for Ku-ring-gai. The Pacific Highway section of the HCA is of aesthetic and historical significance for its collection of fine Federation and Inter-war period housing. Houses at Nos. 1-5 Bushland Avenue are of aesthetic significance as a fine intact group of Inter-war California Bungalows which form an important visual setting for the corner heritage item (No.738 Pacific Highway).*

### **2.3 Statement of heritage impact and draft conservation management plan submitted with the development application**

A Statement of Heritage Impact (SoHI) prepared by Christopher Roehrig (CCG Architects) and Conservation Management Plan, October 2015 (CMP) prepared by Mark Butler of CCG Architects were submitted with the original application. They have not been updated to reflect the recent amendments, but it is noted that the heritage issues raised in my April Heritage Memorandum and at meetings between Council and the applicant's design team have been responded to by the applicant's heritage architect in the letter submitted by Evolution Planning (14 October 2016)

submitted as part of the amended proposal. Refer to the April 2016 Heritage Memorandum for a more detailed review of the original SoHI and CMP.

The SoHI is reasonably thorough and addresses most of the NSW Heritage Branch's requirements for assessing heritage impact, although not all statements in the SoHI are agreed, particularly those relating to setting, curtilage, landscaping and views and vistas. The SoHI places emphasis on the fabric of the house and front setback area and provides little information about the rear half of the item or justification for the impact that the proposed development will have on this area or the significant aesthetic values of existing views over the item and the manner in which they rely on the backdrop of tall trees.

A Conservation Management Plan (CMP) was also been submitted with the application. This is understood to have been requested by Council during earlier Pre-DA meetings. The CMP is thorough and repeats much of the content of the SoHI, including a slightly amended version of the mapped 'contributory elements' assessment in the SoHI.

The CMP also includes Constraints and Opportunities (s.5) and recommended Conservation Policies (s.7) for the property. These focus on the fabric of the house and not the garden and make only minor reference to the relationship between the house and its current setting. Most of the Policies are generic and supported with the exception of those that clearly were written to respond to the proposed development, and not provide generic advice for minor alterations and additions consistent with the existing built form and residential character of the item. A CMP should stand as an independent policy guideline and should address all parts of the item and its physical and visual setting.

The CMP includes recommendations that it be endorsed by Council as the guiding document for the management of the heritage item into the future. The analysis and policies in the CMP are not all supported, particularly those identified above, and it is not suitable for endorsement in its current form. In addition to the matters identified above, any CMP which is intended to guide the conservation process should stand independently of any particular development proposal and should address the entire curtilage (physical and visual). It should also include a detailed Schedule of Conservation Management Works for the property.

### **3.0 MAIN IMPACTS OF THE DEVELOPMENT ON BIRRALEE AND THE ST JOHNS AVENUE HCA**

#### **3.1 Impacts of subdivision and building over the curtilage of the heritage item**

- The curtilage of a heritage item describes the area of land that demonstrates the identified heritage values. Development on any part of a site that includes a heritage item should respect the heritage values of the item, including the values and qualities of its curtilage.
- The curtilage of Birralee is not limited to the footprint of the building (as was presumed in the submitted SoHI/CMP). The legal curtilage of the item extends over the whole of the existing site, including the area proposed for development.
- The visual curtilage of a heritage item is rarely contained wholly within its legal curtilage, but extends over the adjoining landscape to include the visual catchment. In the case of Birralee, this visual catchment includes the trees to 25A and 27 Bushlands and those at the rear of the adjoining properties in St John's Avenue. It also includes the streetscape setting of Bushlands Avenue.

- The new aged care facility building will be built over the amalgamated site and will extend over most of the rear half of its significant curtilage.
- The legibility of the property within the streetscape as a representative house and garden will be overwritten by the monolithic form and of the proposed development.
- The integrity of the existing heritage listing of the whole site will be compromised by both re-subdivision and development. A development that facilitates this level of heritage impact must be of significant concern.

### **Comment**

The inclusion of a building of the scale, form and detailing extending over both the curtilage and the remainder of the site will have a significant impact on the integrity of the item as a house and garden setting.

The scale, form and siting of the proposed aged care facility building does not respond to or interpret the significant curtilage to the rear of Birralees house. The alignment of the curtilage could be interpreted within the siting and form of the new structures but this would achieve a limited heritage outcome unless more of the rear garden area was also kept to retain the integrity of the curtilage in a more meaningful manner.

### **3.2 Impacts on the heritage values of the streetscapes of Bushlands Avenue and St Johns Avenue**

- The three properties demonstrate clearly the traditional patterns and rhythms of subdivision and development in Ku-ring-gai. The houses are surrounded by gardens, and are visually and physically dominated by them. Houses are set well back from their side boundaries, and in the case of Birralees and no.27, occupy only half of their street frontage, allowing back garden areas and planting to be visible from the street.
- The trees to the rear read as a continuous band of vegetation that contributes strongly to the legibility of the patterns of development through the contrast of built and natural forms, and hard and soft edges. These qualities make an important contribution to the setting and aesthetic heritage values of 25 Bushlands Avenue and the St Johns HCA.
- The built form proposed extends c.64m across the amalgamated site to within 3/3.5m of the eastern and western (side) boundaries.
- The footprint of the southern elevation includes three 'wings' that extend toward Bushlands Avenue. These wings are intended to respond to the traditional pattern of development in the area by allowing space for planting between and help to reduce the visual bulk of the building from the street

### **Comment**

The low density streetscape rhythms of Bushlands Avenue and St Johns Avenue (adjoining to the north) are substantially intact. The pattern will be clearly interrupted by the width of the proposed development that extends across the three sites. The three 'wings' will be separated by planting. The depth and complexity of this planting has been improved in the amended proposal.

The visual impact of the central wing (the main pedestrian entry) has been reduced in the amended proposal by reducing the scale and form of its roof and by deleting the proposed loop driveway and retaining existing mature shrubs along the western boundary of Birralelee. The space between the two buildings and the street will be dominated by the shrubs and a sweet pittostrium (10m high, 5m spread) set close to the eastern corner of the wing beside the house and a spotted gum (15x8m) to the western corner.

The visual impact of the eastern wing, which will be between Birralelee's house and the boundary, has also been reduced by the amended proposal. It will still be clearly visible from Bushlands Avenue but its footprint is now proposed to be set further back than shown in the original application, and will now be in line with the rear of the original house. Its street-facing elevation been amended to present as banks of traditional lightweight casement windows enclosing verandah spaces to reduce the institutional character of this part of the development which is close to the side elevation of Birralelee. The visibility of this wing will be reduced by the retention of the Himalayan Cedar (*Cedrus Deodara*). The space at ground level will be a paved, secure courtyard for use by residents.

A major concern with the original proposal was that the southern elevation of the new building would be clearly visible immediately behind the roof of the house and would replace the existing vegetated qualities of views over Birralelee. The amended plans show the addition of two pairs of trees in the (reduced) courtyard area between the rear of the house and the new building and the retention of a large turpentine (T50) in the rear garden area (i.e. to the north of the main building). The species proposed should theoretically be capable of establishing a vegetated canopy buffer behind the house in street views. Council's Landscape Officer has advised that this is not a realistic estimate given the basement excavation below and proximity of buildings to the trees.

The central wing is a single storey in height and is set close to Birralelee's side elevation.

A mixed planting of trees, shrubs and ground-cover is also proposed between the alignments of the central and western wings in the front setback area. The space between the two wings is an open courtyard (not secured) with seating accessed from the resident's lounge area.

These plantings will help to create a sense of rhythm to the development that responds to the traditional residential streetscape of Bushlands Avenue, but the unbroken elevation of the building behind will prevent the pattern of development being read as a traditional residential one on inspection. Oblique street views have the potential to read as reasonably traditional providing that the indicated planting grows well.

The street Jacarandas along the verge of Bushlands Avenue will now be retained, although a small cherry plum will be removed for the driveway crossing. The jacarandas are young, and should mature to make a positive contribution to the streetscape, particularly when in flower, and should help to direct the eye along the streetscape.

The streetscape of St Johns Avenue HCA is well-treed and gardens generally densely planted. No information has been provided regarding whether the development, and the eastern wing which is proposed to extend within 6.5m of the rear boundary shared with the houses in St Johns Avenue, will be visible or if it will be screened by the trees retained on site. It is not possible to determine the impact of the development on the streetscape of St Johns Avenue unless this is provided.



### 3.3 Impacts of the development on the fabric and garden setting of Birralelee

#### 3.3.1 Demolition

- The fabric of Birralelee's house will be largely retained, as will the front garden area. The house will be adapted for re-use as the administration building for the aged care facility. The only elements to be demolished are recent accretions.
- Most of the contributory garden fabric and elements (including tennis court, swimming pool and garage) within the rear half of the curtilage will be demolished.
- All other structures across the development site will be demolished.
- The retained vegetation forward of the building line within the curtilage of Birralelee will be the Himalayan Cedar (an aesthetically significant *Cedrus deodar*, T014), six trees to the Bushlands Avenue frontage and the hedge between 25 and 23 Bushlands Avenue. The manicured camellias, Japanese maple and other shrubs in front of the house near the existing driveway will also be retained (T10, 10.1, 11 and 12).
- T50, a 18m high turpentine (*syncarpia glomulifera*) to the north-west of the rear corner of the house will be retained. The retention of this tree in the amended design has had other impacts on the form of the proposed development, including moving the southern wall of the new building closer to Birralelee's house.
- Substantial trees within the curtilage of Birralelee or with significant canopy overhang over the item's curtilage to be removed are: (species identification and details from Arboricultural impact assessment by Footprint Green; trees marked in bold are identified by Footprint Green as being of high or very high landscape value)
  - 15: Chinese weeping elm (*Ulmus parvifolia*) (14m high with 17m wide canopy) (identified as having high landscape significance but within the footprint of the proposed building)
  - 16: Chinese tallow (*Sapium sebiferum*) 13m with 10m canopy; moderate landscape significance, moderate health with fair vigour
  - **18: Jacaranda (*Jacaranda mimosifolia*) 15m with 16m canopy; High landscape significance; good health, good vigour**
  - 22: Chinese weeping elm (*Ulmus parvifolia*) 5m with 8m canopy; Moderate landscape significance; moderate health, good vigour
  - **23: Tuckeroo (*Cupaniopsis anacardioides*); 16m with 12m canopy; high landscape significance; good health, good vigour**
  - 24: Tulipwood (*Harpullia* sp.) 12m with 5m canopy; moderate landscape significance; good health, good vigour (to be removed because within 1.1m of building)
  - 25: Canary island date palm (*Phoenix canariensis*) 12m with 8m canopy; moderate landscape significance; good health, good vigour (to be removed because within 1.1m of building)
  - 40: Jacaranda (*Jacaranda mimosifolia*) 15m with 9m canopy; moderate landscape significance; good health, good vigour

- **46: Blackbutt (*Eucalyptus pilularis*) 26m with 18m canopy; very high landscape significance; moderate health, fair vigour**
- **49: Blackbutt (*Eucalyptus pilularis*) 26m with 22m canopy; very high landscape significance; moderate health, fair vigour**
- 72.1: Atherton Oak (*Flindersia australis*) 9m with 4m canopy; low landscape significance; good health, good vigour
- 72: Australian Teak 6m (*Athertonia diversifolia*) 6m with 4m canopy; low landscape significance; good health, good vigour
- 73: Native gardenia (*Atractocarpus fitzalanii*) 5m with 4m canopy; low landscape significance; good health good vigour
- Two trees (a White feather honeymyrtle *Melaleuca decora* (6m x 3m) and a Blueberry ash (*Eleocarpus reticulatus*) (12x 5m)) will be planted in the gap in the vegetation near the northern boundary created by the removal of T23 and T25.
- Most of the remnant bushland trees at the rear of 25A and 27 Bushlands will be retained.
- All street tree plantings are now to be retained except one small cherry plum which conflicts with the driveway crossing.

#### *Demolition of structures - comment*

The retention of Birralees' house, including significant and original fabric and the integrity of its roof form, is supported. The adaptation of the original house for office and small-scale meeting spaces, including the demolition of recent accretions at the rear corner of the house will not have an adverse impact on the significant fabric or heritage values of the house.

The various elements associated with the historic use of the property as a private residence such as the garage, swimming pool and tennis court will be demolished. Whilst none of these elements is contemporary with the original period of construction, their form and detailing is characteristic of the Ku-ring-gai garden and their loss and replacement by the aged care facility will impact on the integrity of the garden setting of the property.

The demolition of 25A and 27 Bushlands Avenue will not impact directly on the heritage values of Birralees. The paired driveways to 25 and 25A's garages will be removed but will be replaced by the main pedestrian entrance to the development with the adjacent traditional planting retained. This is supported.

#### *Removal of trees and landscaping - comment*

The spatial qualities and uses of Birralees' garden are representative of the traditional early-mid 20thC Ku-ring-gai garden. The site is wide and the house is surrounded by its garden, in contrast to more modest development on narrower lots where side setbacks were minimal. The tall trees to the rear of the site provide not only a backdrop to views over Birralees but also reveal the depth of the site and its garden in views from Bushlands Avenue.

Most of the trees to be removed within Birralees' curtilage are within the footprint of, or are in close proximity to, the proposed building. Some are of high individual landscape value, and their loss will impact on the density of the vegetated backdrop to views over the property, and the heritage values of the property as a good quality and representative Ku-ring-gai garden.

The house and front garden space including the lawn and large deodara will be retained and adapted for re-use as part of the aged care facility. The deodara is an important planting in the

garden; and the conservation of the significant visual and spatial relationship between it and the house is critical in achieving a sympathetic heritage outcome.

The shrubbery in the front setback area near the driveway entrance is representative of the Kuring-gai garden. It both frames Birralee's front garden and views of the house from the adjacent street frontage and provides a sympathetic foreground for oblique views of the house from Bushlands Avenue to the south-west.

### **3.3.2 Scale, form and siting of the new building**

- The proposed aged care facility will consist of a single building extending c64m across the site with two main 'wings' set parallel to the eastern and western boundaries of the site and linked across the width of the lot with a smaller third 'central' wing providing the main pedestrian entrance to the property and extending towards Bushlands Avenue. Birralee's house will be retained and a new tea house/café will be built in the rear garden area on the edge of the retained bushland. This building is also partly within the curtilage of Birralee.
- The eastern and centre wings are set either side of the retained fabric of the house and extend to within 2-3m of the house's footprint. The eaves of the house and central wing will be separated by only c60m in elevational view from Bushlands Avenue.
- The western block steps down one level from the remainder of the development in response to the fall of the land.
- The original house and the new building will be linked to the main building by a covered pergola structure that is not attached to the fabric of the house.
- The eastern wing extends over most of Birralee's garden at the rear to within 6.5m (scaled) of the boundary of the properties within the St Johns Avenue HCA.
- The building is predominantly 2 stories in height with a 3 storey (equivalent) section near the lift core.
- The roof form is low-pitched with hipped ends and in-plane studio-style roof lights. The lift core has a projecting skillion directed to the west.
- Much of the site under the footprint of the building will be excavated for basement parking and/or re-profiled. This excavation will extend into the curtilage of Birralee but will not extend under the dwelling or front garden spaces. It will be very close to the root zone of the four proposed courtyard trees.
- The courtyard behind the house will be planted with four trees. These are nominated on the drawings as "UL" but the schedule does not identify the species proposed. It is assumed that the plans should read "TL" as there are four otherwise unaccounted (in the schedule) *Trisaniopsis laurina* (Watergums) and the heritage advice in the covering letter nominates this species.
- Paved and fenced secure courtyards will be formed in parts of the garden area.
- The fence to the Bushlands Avenue elevation is to be a timber joinery fence to match the original fence to Birralee. It will extend across the full frontage of the development site.
- The separation between the house Birralee and the new building has been reduced to approximately 8.75m (plans not dimensioned) (from c.17.3 (main part) and 3m (at sides)). The information provided with the application states that this reduction was required to retain the turpentine (T50) at the edge of the bushland area.

*Scale, form and siting of the new building - comment*

The main heritage impacts of the development arise from the siting, scale, form and massing of the new building and its relationship with the retained form of Birralelee. The property will no longer read as an early 20<sup>th</sup> house in a mature garden setting. Visual permeability to the rear of the site will be lost and the visual and spatial qualities of the house in its setting will be compromised. Views over the house will terminate in the medium density scale and form of the proposed aged care building.

The development will extend across the amalgamated site with two main blocks set north-south at the eastern and western ends of the site, linked by what will read as an impermeable wall of built form. A smaller wing will extend from this wall toward Bushlands Avenue immediately to the west of the retained house. The two main blocks are linked at each level, meaning that although on plan view the two blocks are largely separate and connected only lightly, the elevations to both the St Johns Avenue HCA and to Bushlands Avenue will read as a continuous c64m long building extending almost boundary to boundary. This form has allowed much of the indigenous vegetation to be retained but has negligible benefits in terms of impacts on the heritage significance of Birralelee. The eastern wing, which is the largest, will overwrite most of Birralelee's curtilage.

Its bulk will be clearly visible in all views over the house from the public domain and its urban form will replace the existing soft landscaped setting of views over Birralelee.

The prevailing height of the proposed aged care building is two storeys above ground, which will be generally consistent with the traditional height of residential development in the area. The roof is hipped. Its low pitch (at 15 degrees) is noticeably shallower than that of the early-mid 20thC forms that prevail in Bushlands and St Johns Avenues. The ridges of the new roofs are punctuated by skylights set in-plane with the slope of the roof. The form of the roof over the main lift core (situated in the part of the new building behind Birralelee's house) has been amended from the earlier design. It will now be a skillion set above the main ridge, with the skillion at the same angle as the roof below but facing to the west; i.e. away from the roof below. Although smaller in footprint the design as amended will be unduly prominent and aesthetically unsympathetic due to this counterpoint form. If a skillion roof is retained it should be set parallel to the plane of the hip closest to it when viewed from the street.

The amended plans have addressed some of the original concerns about the loss of setting by moving the footprint of the eastern wing approximately 6m to the north to allow both building and courtyard to be wholly behind the canopy/root zone of the tree and to allow space for further growth. This is supported. The Deodar is a significant planting that will play an important role in reducing the visual impact of the eastern elevation of the development in views from Bushlands Avenue. The rear elevation of this wing has however now been moved c3m closer to the rear boundary and the St Johns Avenue HCA.

The middle and eastern wings extend into the space beside Birralelee's house and visually bracket it, potentially increasing the overall massing of Birralelee's built form in views from the public domain. Another courtyard space is proposed behind part of the retained house, but the wings will extend into the space and prevent any meaningful aesthetic separation in both direct and diagonal views over Birralelee. A detached glazed pergola will be built across the rear of the house to replace the demolished back verandah area and link it to the new wings on either side. The depth of this courtyard has now been reduced but it is proposed to include four trees to provide a vegetated backdrop to views over Birralelee and screen the visual impacts of the development

behind. Council's Landscape Officer has advised that the nominated species, *Tristania laurina* (Watergum), is not realistically likely to achieve the nominated 12m, its height in the Sydney area being more likely between 4-10m when planted in deep soil. The root zones of all four and their growth potential will be constrained by the carpark excavation and their above-ground habit will likely be impacted by their uncomfortably close proximity to the buildings. Although the intention of this planting to rise above the ridge and replace some of the lost backdrop planting is supported, it is considered that this will not be achievable in the context of the development. The modification of building footprint, including basement area, will be necessary to achieve the required outcome.

The middle wing is intended as the main entrance. It will extend within 2m of the western elevation of the house for approximately half its length, but it should be noted that, when viewed from the street, the apparent separation between the two roofs will be less than 60cm.

The elevation of the western wing is set within 3.5m of the boundary of the site, a slight increase over the original proposal. It will now be set back only 14.64m from Bushlands Avenue, approximately 4.5m closer than the two closest original houses (Birralelee and no.29). The plans suggest that this setback is based on the setback of properties at least 5 lots away in each direction (9A, 15, 37 and 39A Bushlands Avenue). The separation and planting between the two will help to reduce the impact of this in views over Birralelee from Bushlands Avenue however, and the difference will not be visually prominent in oblique views.

Basement parking is provided at the lower (western) end of the site, accessed from an excavated driveway at the western end of the street frontage. All parking, emergency and delivery functions will now be carried out in this basement area, which is a significant improvement over the original proposal. A simple, straight pedestrian path from Bushlands Avenue is proposed close to the existing driveway alignment of Birralelee and 25A. The existing manicured shrubs and street trees in this area will now be retained. This access configuration is a much more sympathetic option in terms of heritage impact than the original DA.

*Form and siting of the aged care building – elevation to the St Johns Avenue HCA - comment*

The building will also extend over most of Birralelee's curtilage to within c.5.85m of the boundary of properties within the St Johns Avenue HCA. This is considerably closer than traditional detached residential development throughout Ku-ring-gai and, even though most of the trees in the space between are to be retained and two new trees planted, will be likely to impact (overlook and visually overwhelm) the properties within the HCA as well as the adjoining property to the east in Bushlands Avenue.

A sectional and view analysis was requested for the original DA (which was to be c11m from the northern boundary) but does not appear to have been provided. Elevational photomontages have been provided that suggest that the planting proposed will form a well-vegetated screen. The fenestration of the northern elevation has been amended to delete a proposed deck and to not include north-facing windows to the end bedroom on each level. An adjacent communal 'quiet room' on each level will have north facing highlight windows. The lower level will have west-facing access to an elevated walkway that leads to the tea house. This walkway will be approximately adjacent to the tennis court at the rear of 42 St Johns Avenue but this should be well screened by the planting.

### **3.3.3 Adaptation of Birralees house for use as administration and offices for the facility**

- Most of the fabric of Birralees is to be retained and the domestic spaces are to be adapted for use as offices. Internal works proposed are modest.
- Later additions and alterations such as the ensuite bathroom and walk-in wardrobe on the western elevation are to be demolished. The opening to the verandah will be infilled with brick and a timber window reconstructed.
- A pergola with transparent roof sheeting will be built across the rear of the house to link it to the new development. The structure will not impact on the fabric.

#### *Proposed adaptation for use as offices – comment*

Birralees is significant in part for its residential heritage values. The site remains zoned for this use, and the ongoing use of properties in the vicinity suggests that this use is not superseded or unviable, requiring adaptive re-use of the scale proposed for its conservation. Changing the use to administration offices associated with the proposed commercial use as an aged care facility will have a significant impact on the historic values and heritage significance of the property.

If the use of the property is to change adaptation of the fabric is likely to be necessary. The works identified are modest in scale, reversible and will have an acceptable impact on the heritage significance of the property.

### **3.3.4 Driveways, fences and street trees**

- Early photographs reveal that Birralees original fence was timber joinery typical of the Federation style.
- This has been removed and a low, rounded brick now marks the boundary to 25 Bushlands Avenue.
- The boundary between 23 and 25 Bushlands Avenue is a tall hedge which is to be retained.
- A traditional Federation timber joinery fence is now proposed across the whole of the street frontage. The form and detail of this fence will be informed by photographs of Birralees original fence.
- Four Jacarandas on the verge will now be retained. The only street tree impacted by the proposed development is a small cherry at the driveway crossing.
- A substation kiosk is proposed to the west of Birralees.
- No hydrant booster pump is shown.

#### *Driveways, fences and street trees: comment*

The original front fence to 25 Bushlands Avenue was a typical Federation timber joinery fence. Its form and rhythm are visible in an early panoramic photo of 25 Bushlands Avenue and are characteristic of fences in the period. The reconstruction and extension of this fence across the full width of the site will make a positive contribution to the streetscape of Bushlands Avenue and views over the site and is supported.

Aged care facilities also require extensive internal security infrastructure to prevent patients wandering from the site and other risks. The security fencing will need to extend around much of the building. The development includes a secured courtyard beside Birralees house in front of

the eastern wing. No details are provided, but the fence will presumably need to be high and designed to prevent climbing. It has been set back further from the street in response to earlier concerns and will now be less intrusive beside the house in views from Bushlands Avenue and be less likely to impact on the deodar through paving and compaction of the root zone. No screening of the fence is shown on the amended plans and some understorey-styled planting is still recommended. Any fence should be painted a very dark green, grey or black.

The street tree planting along Bushlands Avenue is erratic in both species and patterns of planting, but the trees in the vicinity of the site make a positive contribution to the streetscape qualities of 25 Bushlands Avenue. The retention of the four Jacarandas in the verge near the main driveway entrance is supported. These trees are on Council's land, and their removal would impact on the streetscape qualities of views along Bushlands Avenue.

An additional matter for consideration associated with driveway entrances is the positioning of utility infrastructure associated with development of this type. The amended landscape plan shows a kiosk-type substation to the west of Birralelee near the driveway entrance. The plan also suggests that it will be screened from casual view, although presumably accessible to the energy supply company when required. This is supported. The location of the hydrant booster pump assembly is not shown. It should not be located within Birralelee's curtilage.

#### **4.0 ASSESSMENT AGAINST STATUTORY CONTROLS**

(See section 1.2 above for legislative context)

The application must be assessed under the NSW EP&A Act 1979; the State Environmental Planning Policy (housing for seniors and people with a disability) 2004 (the SEPP); and the Ku-ring-gai LEP 2015.

##### **4.1 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004**

The land to be developed is situated within the area covered by Ku-ring-gai LEP 2105 and the Ku-ring-gai DCP 2105. It is zoned R2 (low density residential), which prohibits residential flat buildings and similar development. The proposed health care facility use is not permissible within the provisions of the LEP and development consent is being sought under the provisions of the SEPP. The SEPP enables the consent authority to approve development for the proposed use even where it is not permissible in the zone in the LEP, but only under certain circumstances.

The SEPP does not override the merit-based requirements of the KLEP 2015 and KDCP 2105, including those relating to heritage impacts. The SEPP also requires that consent cannot be granted if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles in Division 2 of Part 3 (s.33, neighbourhood amenity and streetscape). These design principles should "be followed to achieve built form that responds to the characteristics of its site and form" [sic] (s.2.2.(b)). They are:

##### **33 Neighbourhood amenity and streetscape**

The proposed development should:

- (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

(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, and

(c) maintain reasonable neighbourhood amenity and appropriate residential character by:

(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

(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

(e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and

(f) retain, wherever reasonable, major existing trees, and

(g) be designed so that no building is constructed in a riparian zone

**Assessment under s33B of the SEPP - Clause 33 – Neighbourhood amenity and streetscape** (note that this clause is not limited to heritage issues)

Requirement	Comment
The proposed development should:	
(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>The desirable elements of the location's current character include:</p> <ol style="list-style-type: none"> <li>1. the clearly expressed heritage values of Birralelee (being house and its setting) and its ability to demonstrate the main characteristics of the traditional Ku-ring-gai house and garden.</li> <li>2. It also includes the consistency of detached low density residential development in the whole of the streetscape of Bushlands Avenue.</li> <li>3. It also includes the desirable historic and aesthetic qualities of the adjacent St Johns HCA which abuts the development site.</li> </ol> <p>The area is stable and not undergoing change of the type and scale proposed. The local planning controls do not envisage or facilitate development of a character other than the existing low density residential one.</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, and	<p>The proposed development will result in the loss and obscuring of much of the curtilage of the heritage item Birralelee including almost all fabric within this part of the curtilage. The proposed development is over-scaled for the site and its setting, and is visually impermeable.</p> <p>The proposed aged care facility will retain the original significant fabric of the house, but its scale, form and siting will not complement the heritage values of the house as it relates to its setting. The existing heavily vegetated backdrop against which views of the house are read will be demolished and replaced by the institutional building. The planting in the courtyard area</p>



Requirement	Comment
	<p>should help to visually and spatially separate the house from the new building behind but concerns are raised regarding the species selected and also the longer-term viability of any planting in such close proximity to the carpark excavation and surrounding buildings.</p> <p>The scale and form of the proposed development will be discordant with the aesthetic qualities of the retained house and its setting.</p> <p>The proposed development will also result in the loss of vegetation that contributes to the integrity of the visual setting of the St Johns HCA and also has the potential to allow residents to overlook the private open space of the properties within the HCA.</p> <p>For additional impacts, refer to section 3 above.</p>
(c) maintain reasonable neighbourhood amenity and appropriate residential character by:	
(i) providing building setbacks to reduce bulk and overshadowing, and	See above. The building setbacks from the rear and side boundary of the heritage item are minimal and in the case of the rear boundary to the HCA are significantly less than that required for a single family dwelling. The retained house of Birralelee will be overwhelmed and overshadowed by the scale and proximity of the proposed development.
(ii) using building form and siting that relates to the site's land form, and	The building proposes a single step in its overall (64m) width across the site.
(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and	The streetscape reads as a mainly single storey one. Adjacent development is a single storey in height with any second levels set within or with modest impact on roof forms. Birralelee is consistent with this, being a single storey with attic rooms in the original roof volume (with modest conversion of the rear hip to a gable).
(iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and	The walls are set close to the side boundaries in particular – and the eastern elevation of the development (adjacent to the boundary with 23 Bushlands Avenue and that to the rear (properties on St Johns Avenue) are built well over the boundary of the heritage curtilage and demonstrate no evidence being given to the consideration of the impact of these walls.
(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	See commentary above. The 'front building' of the development will not be the heritage item. The western wing will be set c.4m forward of the retained house. The separation and planting between the two will help to reduce the impact of this in views over Birralelee from Bushlands Avenue, and the difference will not be visually prominent in oblique views.
(e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and	The development site is well-vegetated at present. The character of the existing gardens of all three properties is informal with traditional front gardens and remnant endemic bushland behind forming a backdrop to views over the heritage item and other houses from Bushlands Avenue. The proposed planting is a mixture of informal and formal planting schemes, and in the amended proposal is generally consistent with plantings of other

Requirement	Comment
	properties within the streetscape. The retention of the massed shrubbery in Berrilee's front setback area, retention of the spatial integrity of the deodar and proposed new planting in the setback with lawn area will together play an important role in establishing a sympathetic setting for the house.
(f) retain, wherever reasonable, major existing trees, and	<p>Approximately 57 trees are to be removed over the development site, including several significant canopy trees, (8 within the curtilage of the heritage item) because they conflict with the proposed building footprint.</p> <p>The amended proposal has been redesigned to retain one of the large canopy trees previously proposed to be removed.</p> <p>See s3 above for more detail.</p>

#### 4.2 Ku-ring-gai LEP 2015

The LEP includes objectives and development provisions that are to be satisfied when development is on the site of a heritage item, in a heritage conservation area or in the vicinity of an item or area.

The proposed development is (partially) on the site of a heritage item (25 Bushlands Avenue). The whole of the site is also in the vicinity of a heritage conservation area. Both 25A and 27 Bushlands Avenue are also in the vicinity of the heritage item at 25.

The following aims of the LEP are particularly relevant to the assessment of the heritage impacts of the proposal:

- (b) to guide the future development of land and the management of environmental, social, economic, heritage and cultural resources in Ku-ring-gai for the benefit of present and future generations,*
- (f) to recognise, protect and conserve Ku-ring-gai's indigenous and non-indigenous cultural heritage,*
- (j) to protect the ..... the special aesthetic values of land in the Ku-ring-gai area.*

The following heritage objectives (cl 5.10) of the LEP apply to the proposed development:

- (a) to conserve the environmental heritage of Ku-ring-gai,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

Cl. 5.10 of the LEP also requires the consent authority to consider the effect that the proposed development will have on the heritage significance of the heritage item and heritage conservation area before it grants any consent for the development. These matters are identified throughout this report and against the requirements of the Development Control Plan in the following section.

#### 4.3 Ku-ring-gai DCP 2015: Heritage Provisions

The development is also required to comply with the Ku-ring-gai DCP 2015.

Sections 20B.2.3 relates to the partial demolition of a heritage item and 20E (development to a heritage item) are relevant to the development. Section 20F relates to development in the vicinity of heritage conservation area and applies to the amalgamated development site.

The following table summarises the compliance with the relevant sections of these provisions. See also the more detailed comments in the assessment of heritage impacts above.

<b>20F DEVELOPMENT IN THE VICINITY OF HERITAGE ITEMS OR HERITAGE CONSERVATION AREAS (HCAS) – applies to the amalgamated development site</b>	
<b>Development Controls</b>	<b>Complies? [comments in square brackets refer to compliance of those parts of the development within the site of 25A and 27 Bushlands as development in the vicinity of the HCA]</b>
<b>20F.1 Local Character and Streetscape</b>	
General 1 All development in the vicinity of a Heritage Item or HCA is to include a Heritage Impact Statement.	Yes [yes, but the HIS (SoHI) does not address the impactse of the development as being in the vicinity of the HCA]
2 Development on sites that either directly adjoin or are in the vicinity of a Heritage Item or an HCA is to have regard to: i) the form of the existing building of buildings including height, roofline, setbacks and building alignment; ii) dominant architectural language such as horizontal lines and vertical segmentation; iii) proportions including door and window openings, bays, floor-to ceiling heights and coursing levels; iv) materials and colours; v) siting and orientation; vi) setting and context; vii) streetscape patterns.	No – see comments above  [No – significant non-compliance - see comments above]
<b>Retail/Mixed Use Setting</b>	
3 New development adjacent to or in the vicinity of a Heritage Item or HCA within a retail/mixed use setting such as an existing row of two storey shops, are to: i) retain the existing characteristics of the street including the setback, height and rhythm of facades, and is to be sympathetic to the materials and detailing of the earlier facades. ii) retain a pedestrian building scale at the street level and to set back any levels that are higher than the adjacent Heritage Item	N/A  [N/A]
<b>Views</b>	
4 New development in the vicinity of a Heritage Item or HCA is to demonstrate that it will not reduce or impair important views to and from the Heritage Item/HCA from the public domain.	Trees are to be removed over much of the site. Views to the item from the public domain (Bushlands Avenue) will retain existing legibility but their quality will be impaired through the replacement of much of the vegetated backdrop by built form on the sites of 25A and 27 (in addition to 25). No view analysis has been provided to determine impacts

<b>20F DEVELOPMENT IN THE VICINITY OF HERITAGE ITEMS OR HERITAGE CONSERVATION AREAS (HCAS) – applies to the amalgamated development site</b>	
	from the western end of the development site past the protrusion of the western wing. [No information provided re visual impact on the streetscape of the HCA to the north.]
<b>20F.2 Building Setbacks</b>	
<b>Setbacks</b>	
1 The front setback of development adjacent to a Heritage Item or buildings within an HCA is to be greater than that of the Heritage Item or building within the HCA. Where variations in setbacks exist, the larger setback will apply	No. The western wing will be positioned 4.5m forward of Birrallee's house to Bushlands Avenue.  [N/A given subdivision context (abuts rear boundary of the HCA)]
<b>Residential Context</b>	
2 All medium and high density development is to have a stepped facade to any common boundary with a Heritage Item or building within the HCA. The facade is to be stepped back above an 8m height from natural ground level as per Figure 20F.2-1. Facades greater than 8m high will not be permitted adjacent to a Heritage Item or building with an HCA.	Yes. [Yes]
3 In addition to the side and rear setback controls in Section A of this DCP, new development adjacent to a Heritage Item or building within an HCA, is to comply with the following: i) adjacent development is to have a minimum 12m building separation to the Heritage Item (more if side setback requirements are not met within the 12m) as per Figure 20F.2-2; ii) adjacent development is to not exceed a facade height of 8m from existing ground level, including balustrades; iii) adjacent development with a building mass above 8m high from existing ground level is to be stepped back an additional 6m from the Heritage Item as per Figure 20F.2-2; Where variations in setbacks exist the larger setback will apply.	No-development will straddle the boundary to the heritage item.  Yes [yes]  N/A [N/A]
<b>20F.3 Gardens and Landscaping</b>	
<b>Gardens, Setting and Curtilage</b>	
1 Development in the vicinity of a Heritage Item or an HCA is to: i) retain original or significant landscape features associated with the Heritage Item or HCA, or which contribute to its setting ii) retain the established landscape character of the Heritage Item or HCA. iii) include appropriate screen planting on side and rear boundaries.	No [No]  No [Generally] Partly [yes]
<b>20F.4 Fencing</b>	
<b>Fences on adjoining sites</b>	
1 New front fences on adjacent sites are to be no higher than the front fences of the adjoining Heritage Item or HCA. Open and transparent front fences such as timber or metal picket are preferred.	Yes [N/A]
2 No metal panel fencing is to be constructed on any boundary of a Heritage Item.	Yes
<b>20A SUBDIVISION AND SITE CONSOLIDATION - HERITAGE ITEMS AND CONSERVATION AREAS</b>	
<b>Development Control</b>	<b>Complies</b>
<b>20A.2 Subdivision and site consolidation of a heritage item</b>	
1 Subdivision of a Heritage Item will only be supported where: i) the subdivision does not adversely affect the cultural significance of the Heritage Item;	Noted. Does not comply.

<b>20A SUBDIVISION AND SITE CONSOLIDATION - HERITAGE ITEMS AND CONSERVATION AREAS</b>	
ii) evidence of the historical setting, landscape and subdivision pattern can be recognised and/or retained.	
<p>2 Subdivision or consolidation will not generally be permitted where the curtilage and setting of a Heritage Item and significant buildings within or adjoining the site, would be compromised.</p> <p><i>Note: Applications for subdivision and site consolidation of a Heritage Item will require a curtilage analysis within the Heritage Impact Statement with particular emphasis on the potential impact on garden settings</i></p>	<p>Noted. Does not comply</p> <p>No curtilage analysis provided. The SoHI and CMP do not address the part of the item behind the house as part of the curtilage.</p>
<b>Heritage Items within consolidated development sites (outside HCAs zoned medium to high density)</b>	
<p>3 The following controls apply for consolidated sites that include a Heritage Item:</p> <p>i) Consolidated development sites that include Heritage Items are to provide for conservation works to the building and its setting as part of the redevelopment.</p> <p>ii) Isolation of a Heritage Item within the new development will not be supported. Refer to Figure 20A.2-1, 20A.2-2</p> <p>iii) The distance or setback of new development from the Heritage Item is to consider the curtilage and setting of the item and be informed by the CMP.</p> <p>iv) Buildings, structures and garden settings that contribute to the significance of the Heritage Item are to be retained and sensitively incorporated into the development proposal.</p> <p>v) The existing garden setting of the Heritage Item is to be enhanced and extended into the new development. Wherever possible, existing vegetation is to be retained, particularly along view corridors and street frontages.</p> <p>vi) New development is to be broken down in bulk and scale to minimise dominance over the Heritage Item.</p> <p>vii) New buildings to be articulated to respond to the significance of Heritage Items to achieve an appropriate transition in height, bulk and scale.</p> <p>viii) The front setback of the new development is to be greater than that of the Heritage Item. Refer to Figure 20A.2-3</p> <p>ix) Key views to and from the Heritage Item are to be conserved as part of the development. Refer to Figure 20A.2-3.</p> <p><i>Note: A consolidated development site is defined for the purposes of the DCP as the joining of a number of lots to form a single site for the purposes of development.</i></p>	<p>No details provided of site-specific conservation works. The policies in the CMP are generic/respond to the proposed development. Partially complies. The CMP does not consider the part of the site behind the house as within the curtilage and all policies reflect this position.</p> <p>No. Not all recommendations of the CMP are supported.</p> <p>Partly. The front garden setback will be retained and conserved. The contributory garden setting behind the house will not be retained.</p> <p>Yes to front setback of the item. No to rear garden. No to backdrop of view corridors.</p> <p>No</p> <p>No</p> <p>Partly</p> <p>Some views conserved, others impacted.</p>

<b>20B.2 Demolition related to a Heritage Item</b>	
1 The demolition of a Heritage Item, including buildings, other structures, trees and landscape features, is not supported.	Noted
2 Council will only consider the demolition of a Heritage Item .....	N/A
<b>Partial Demolition of a Heritage Item</b>	
3 In considering applications for partial demolition of a Heritage Item (including parts of buildings and other structures, trees and landscape features), Council will assess: i) the significance of the building part or structure and/or landscape features and whether its retention is considered necessary; ii) its contribution to the significance of the Heritage Item as a whole; iii) whether all alternatives to demolition have been considered with reasons provided as to why the alternatives are not acceptable	Noted. Addressed in the assessment of heritage impacts above.

<b>20E HERITAGE ITEMS – New development</b>	
<b>Development Controls</b>	<b>Complies</b>
<b>20E.1 Building Design</b>	
<b>Alterations and Additions – External</b>	
1 All works to a Heritage Item are to comply with the controls in this section regardless of whether the property is located in an HCA or not.	Noted
2 Development applications for works to a Heritage Item require a materials board and details of the colour scheme and finishes to be submitted.	-
3 New work to Heritage Items may be identifiable as new; however, works are to respect and have minimal impact on the property's heritage significance.	Yes (work is identifiable as new) No (impact on the heritage significance of the item is not minimal. See s.3 above.
4 All significant built features of a Heritage Item are to be retained and conserved.	Yes (re the house) No (re built features of garden, including traditional tennis court)
5 Original materials, finishes and details are to be retained and their repair using traditional techniques is encouraged.	No information provided. Generic statements re repair in CMP, no schedule of works or details.
6 Alterations and additions are to respect the scale, form, height, materials and colours of the Heritage Item	No (see details in s.3 above)
7 Alterations and additions are to be located at the rear or side of the building to maintain the integrity of the prominent elevations and streetscape contribution.	Yes, but integrity not wholly maintained due to development on both sides of and immediately behind the building.
8 Extensions, alterations and additions are not to visually dominate or compete with the original scale of the existing building.	No (see details in s.3 above)
9 The re-instatement of missing elements and details, where known, and the removal of past unsympathetic changes, is encouraged.	Unsympathetic accretions to be removed. Details of missing elements at the rear of the house are not known.
<b>Alterations and Additions - Internal</b>	
10 Major internal alterations resulting in the loss of significant interior details, finishes, built fabric, room layout and original floor plan are unlikely to be supported unless it can be demonstrated that there is no adverse impact.	N/A

<b>20E HERITAGE ITEMS – New development</b>	
11 All significant interior spaces and fabric of Heritage Items are to be retained and conserved.	Yes. New uses are generally to be inserted within existing spaces.
12 Original materials, finishes and details are to be retained and their repair using traditional techniques is encouraged	No details provided
13 The re-instatement of missing elements and details, where known, and the removal of past unsympathetic changes, is encouraged.	Yes (removal of past unsympathetic changes)
<b>20E.2 Adaptive Reuse</b>	
1 Adaptive reuse of a Heritage Item is permissible under Clause 5.10.10 of the KLEP where the conservation of the Heritage Item is facilitated. Substantial alteration of the Heritage Item is generally not supported.	Partly. Adaptive re-use proposed but no schedule of conservation works provided. Substantial alteration to garden fabric is proposed. Alterations to the fabric of the house are minor.
2 Development involving adaptive reuse of a Heritage Item requires the preparation of a Conservation Management Plan (CMP) by an experienced consultant to guide change and ensure conservation of the Heritage Item.	Yes. (see comments above)
3 In accordance with Clause 5.10.10 of the KLEP, Council will consider variations to other development standards, including car parking requirements, in order to achieve desirable heritage and planning	Noted.
<b>20E.3 Gardens and Landscaping</b>	
1 Trees, and garden elements and structures which contribute to the significance of the Heritage Item are to be retained and conserved.	Partly
2 New gardens should be horticulturally and stylistically sympathetic to the period of the HCA. The use of similar materials such as sandstone, brick and gravel is encouraged.	Partly – surfaces need to be non-slip for residents.
3 The use of a variety of plant species to avoid mono-cultural plantings along street frontages and as screen planting is encouraged.	Yes - no change proposed
4 High solid hedges that screen the dwelling from the street are not permitted	N/A

## 5.0 SUMMARY OF ISSUES AND RECOMMENDATIONS

### 5.1 Summary of the heritage impacts of the DA as amended

The site of the proposed development site extends over the three residential properties (25, 25A and 27 Bushlands Avenue). The three lots will be amalgamated (a form of subdivision) as part of the development. 25 Bushlands Avenue is a locally significant heritage item. This significance is established by the house and its garden setting. The curtilage of the item includes the whole of the site. The properties 25A and 27 are in the vicinity of the item. The development site is also in the vicinity of (abuts) the St Johns Avenue Heritage Conservation Area.

The proposed development will introduce new uses, built forms and ancillary development that will have the potential to have an unacceptable adverse impact on the heritage significance of the heritage item at 25 Bushlands Avenue and also on the St Johns Avenue HCA.

The house will still be retained and adapted for use as offices in association with the proposed aged care facility. It will remain clearly visible in streetscape views but the aesthetic heritage values of its setting will be significantly impacted by the proximity and detailing of the proposed development, which will sit immediately behind the house and provide the backdrop to views over the property from Bushlands Avenue.

Comments were provided and meetings with the applicant and their professional team were held. The current proposal has been submitted in response to the matters raised at these meetings and many of the issues have been addressed.

In terms of heritage impacts; the amendments have resulted in the following improvements to the proposal:

- Retention of an increased number of trees including T50, a large turpentine that contributes to the vegetated backdrop of Birralelee in views from Bushlands Avenue and from within the property.
- Redesign of the building with a 'quieter' aesthetic, better resolved elevations and less prominent roof form (generally; see below re lift roof).
- Redesign of the main pedestrian entrance (the central wing) to read as a better resolved and detailed element in the design.
- Increase in setback of the main (eastern) wing and secure courtyard to better retain the integrity of the spatial and aesthetic relationship between the retained house 'Birralelee' and the maturing Himalayan Cedar (*Cedrus deodara*) in its eastern (side) garden. This amendment will also help to protect the root zone of the tree from compaction by the courtyard use and provide space for future canopy spread.
- Redesign of the courtyard space between the house and aged care building – including revised planting intended to help to retain the existing visual and spatial integrity of the house (note concerns outstanding re the species selected and the likely impacts of basement excavation and proximity of buildings on the long-term viability of the trees)
- Retention of the massed planting adjacent to the existing driveway. This planting defines the edge of the original front lawn and also provides an aesthetically significant foreground for views to the house from the existing driveway entrance.
- Deletion of the originally proposed drop-off loop and formalised entrance to the development and replacement by a simple pedestrian path from Bushlands Avenue to the main entrance that will take advantage of the retained planting and reinterpret the original spatial relationship between house, garden and access.
- Relocation of all parking, vehicular access and servicing to basement level.
- The front fence has been amended to be a traditional early 20thC timber joinery fence based on photographic evidence of Birralelee's original fence.
- The substation is positioned appropriately and will not impact on Birralelee's fabric or setting (it is also not adjacent to the adjoining residence at 29).
- Retention of all except one street trees. The tree to be removed does not make a significant contribution to the setting of Birralelee.
- Clarification of the proposed amendments to the fabric of the house.

An outstanding issue not addressed in the amended plans is the setback to the rear (northern) boundary with the St Johns Avenue HCA. The footprint has now been moved significantly closer to the boundary; and no details have been provided regarding the impact that a two-storey medium density housing form set so close to the boundary will have on the setting of the HCA. Rendered photomontages have been submitted that suggest that the development will be well-screened by existing and infill planting but this has not been demonstrated with certainty. Site inspection looking to the area of the proposed eastern wing from St Johns Avenue suggests that it will be visible, with most of the closest canopy trees in the current view to be removed and replaced by built form.



The rear elevation of the eastern block has been reconfigured to delete the proposed communal deck and delete/increase sill height of windows to prevent overlooking of the gardens of properties in the HCA. This is supported.

The form and visual impact of the lift core has been reduced by integrating it better into the main built form, but the proposed counter-set angle of the roof to this element will be unduly eye-catching and it is recommended that it be angled to read as parallel with the hip of the adjacent part of the roof, i.e. with the high point to the east.

The substantive issue, the construction of a single 64m wide building with the largest proportion of its built form extending over the curtilage of the heritage item, remains however. The fabric of the house and its garden in the front setback will be retained, but the integrity of the rear half of the curtilage as a traditional garden that provides much of the setting of the house will be significantly adversely impacted.

## **5.2 Conclusion**

The proposed development as amended has addressed many of the issues, both in terms of built form and landscape, that were raised in response to the original DA. The scale, form and detailing have been amended and siting and landscaping significantly improved over the original DA submission.

Notwithstanding the improvements demonstrated by the amended proposal, the proposed development will still have a significant adverse impact on the heritage significance of the heritage item Birralelee at 25 Bushlands Avenue and also on the setting of the St Johns Avenue Heritage Conservation Area. In particular:

1. The proposed new building will be of a scale, form, siting and use that is not sympathetic to Birralelee's heritage significance of as an early 20thC Ku-ring-gai detached residence in a traditional large-lot garden setting. It is set across three residential lots with narrow boundary setbacks and its unbroken form will read clearly as a multi-unit dwelling. The retained fabric of the house will read as a 'heritage' remnant set in front of a visually and physically impermeable façade of medium density residential development.
2. The development will have a significant adverse impact on the integrity of the garden setting and spatial qualities of Birralelee.
3. Surviving and substantially intact evidence of the integration of native bushland and English influenced domestic garden planning within Birralelee's curtilage and in the gardens of development in its vicinity provide a richly dimensioned landscape setting for the house. This relationship will be compromised by the removal of significant canopy trees and the erection of the 64m wide development.
4. The largest block of the development extends over a substantial proportion of the heritage item and will occupy more than 50% of Birralelee's garden area.
5. This block will also extend to within 6.7m of the boundary with the St Johns Avenue HCA. This is unacceptably close and will impact on the setting of the HCA.
6. The proposed plantings will help to screen the façade of the aged care building to some degree but reliance on vegetation to mitigate adverse impacts of development is of concern in the context of the proposed use. The needs of aged people are specific and leaves, gumnuts and shedding of branches within the garden have the potential to be considered dangerous when mature and lead to demands to lop or remove plantings.

7. The long-term viability and potential of the trees in the courtyard area to achieve the intended (and supported) backdrop/screening benefits is questioned given the species proposed and the constraints to root zone and growth area by the carpark excavation and proximity of buildings above. The footprint of the buildings surrounding the courtyard and excavation needs to be revised to achieve a viable screening outcome.
8. The development as proposed will have such an adverse impact on the garden and setting of Birralelee that its heritage curtilage is likely to be irreversibly compromised. Such development will not achieve the objectives of KLEP 2015 because it will not *“conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views”*.

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