

Sydney Central Planning Panel

SCPP No.	2017SCL054
DA No:	DA/506/2017
Local Government Area	Randwick City Council
Proposed Development	<p>A Single-stage development including concept plan for the redevelopment of existing residential aged care facility at the Daughters of Our Lady of the Scared Heart Kensington Campus encompassing;</p> <ul style="list-style-type: none"> • Construction of a new 4 storey residential aged care facility providing 51 beds, car parking for 12 vehicles, offices, activity areas and associated landscape garden; and • Reconfiguration of the existing facilities, repurposing of current aged care rooms and establish linkage to existing development on the site.
Street Address	2 Kensington Road, Kensington
Applicant:	Paynter Dixon Constructions
Number of Submissions	Nil
Recommendation	Approval
Report By:	Michael Brewer – Willana Associates (on behalf of Council)

1.0 Executive Summary

Council is in receipt of a development application (DA) seeking consent for a residential aged care facility at the Daughters of Our Lady of the Scared Heart Kensington Campus. The development comprises construction of a new aged care facility and retention and refurbishment of the existing aged care facility. The application as originally lodged, sought approval for a two-stage integrated seniors development, comprising the following:

- A Concept Plan for the site;
- Stage 1 Detailed DA, comprising:
 - i) A Residential Aged Care Facility (RACF) providing 51 beds, and all associated support services, including lounge areas, staff facilities, kitchen, and laundry;
 - ii) Construction of undercroft car parking to provide 12 car parking spaces, an ambulance bay, and associated delivery and waste service areas;
 - iii) Repurposing of some existing floor space within St Josephs Aged Care Facility to better match current demands, and integrate with the proposed new work; and
 - iv) New street tree planting combined with landscaping works.
- Stage 2, which comprises:
 - i) Reconfiguration of existing facilities to accommodate staff accommodation and lounge areas for residents and visitors;
 - ii) Repurposing of current aged care rooms as accommodation for visiting church members; and
 - iii) Establishment of linkages to existing development on the site.

The applicant subsequently advised on 2 February 2018 that the proposal was in fact to be amended to a Concept Plan and a single stage DA, with all works described in stages 1 and 2 now forming the single stage. Accordingly, the proposal under consideration is for a Concept Plan and a single DA encompassing all of the works listed above in both 'stages'.

The main pedestrian, vehicular access to the new building will be from Tunstall Avenue (existing access relocated) with secondary access from Kensington Road, via the existing building.

The subject DA is referred to the Sydney Central Planning Panel for determination, pursuant to Schedule 4A, of the Environmental Planning and Assessment Act 1979 and Part 4 of State Environmental Planning Policy (State and Regional Development) 2011. The development has a capital investment value in excess of \$20 million.

The development application was publicly exhibited, advertised within the local newspaper and site notification attached to the subject premises as per the requirements of the Randwick Comprehensive Development Control Plan 2013 (RDCP2013) for Public Notification. No submissions have been received.

The application includes a request under Clause 4.6: Exceptions to Development Standard given the development does not satisfy the provisions of Clause 26 of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 in relation to location and access to facilities. The applicant's request under Clause 4.6 of Randwick Local Environmental Plan 2012 is well founded as it will provide similar services and facilities to what currently occupies on site and residents require a high degree of care from nursing staff and are unable to move around without assistance.

The application was referred to Council's Design Review Panel (DRP) for comments and the following key issues have been raised:

- Inclusion of sustainability measures such as increased natural ventilation; inclusion of ceiling fans and external clothes drying areas; provision of additional socialising spaces, clarity on whether solar access standards had been met
- Inclusion of more socialising space and redesign of the courtyard as the main socialisation space
- Improved cross ventilation and solar access, provision of privacy screens and replanning of several bedrooms
- Provision of a turning circle for ambulances
- A range of aesthetic issues relating to materials, colours, design of the pedestrian bridge, roof profile, articulation and responsiveness of the internal courtyard elevations.

Council's internal departments generally raise no objections to the proposal, subject to the imposition of conditions of consent.

The proposed development satisfies the relevant statutory assessment criteria and will result a built form and spatial relationship with the public domain that will become an exemplary addition to the urban fabric. As such, the application is recommended for approval.

2.0 Site Description and Locality

The Site is known as 2 Kensington Road, Kensington and is comprised of several allotments, as follows:

- Lot 1 in DP 562126
- Lot 1 in DP 923373
- Lots 102, 103, 112 and 113 in DP 39292
- Lot 1 in DP 380326

The Site has a total land area of 13,682m², with street frontages to Kensington Road, Addison Street and Tunstall Avenue. The proposed development will front Tunstall Avenue. The Site is currently developed and occupied by the Daughters of Our Lady of the Sacred Heart (DOLSH) and contains a school, convent, chapel, administration offices, and a Residential Aged Care Facility (St Joseph's Aged Care Facility). Adjoining land is used for residential, ecclesiastical, educational and recreational purposes. The Site is located within 400m of the Kensington Town Centre, 600m from the University of NSW and 1.7km from the Prince of Wales Hospital to the east.

Topographically the site is located on top of a ridge and the natural landform, although highly modified, remains visually prominent from the adjoining streets and surrounding vantage points. The land generally falls from the approximate centre of the Site towards each street frontage and overall down to the north towards Addison Street.

In terms of the immediate context of the Site, to the west lies The Australian Golf Club, with a row of one, two and three storey detached dwelling houses fronting Tunstall Avenue which also back onto the golf course. To the south lies a sports field and the Sacred Heart Monastery and Chapel with detached one and two storey dwellings fronting Tunstall, Tedwin and Inglethorp Avenues further beyond. The areas to the north and east of the Site contain a mix of educational and religious/ community facilities as well as residential properties. The residential uses include detached dwellings ranging from single to three storeys and older-style three and four storey residential flat buildings. Other facilities include Our Lady of the Rosary Catholic Primary School and Jubilee Hall, as well as the Our Lady of the Rosary Catholic Church and Parish Office. See Figure 1 (Locality Map), Figure 2 (Site Map) and Figure 3 (Detailed Site Map), below.

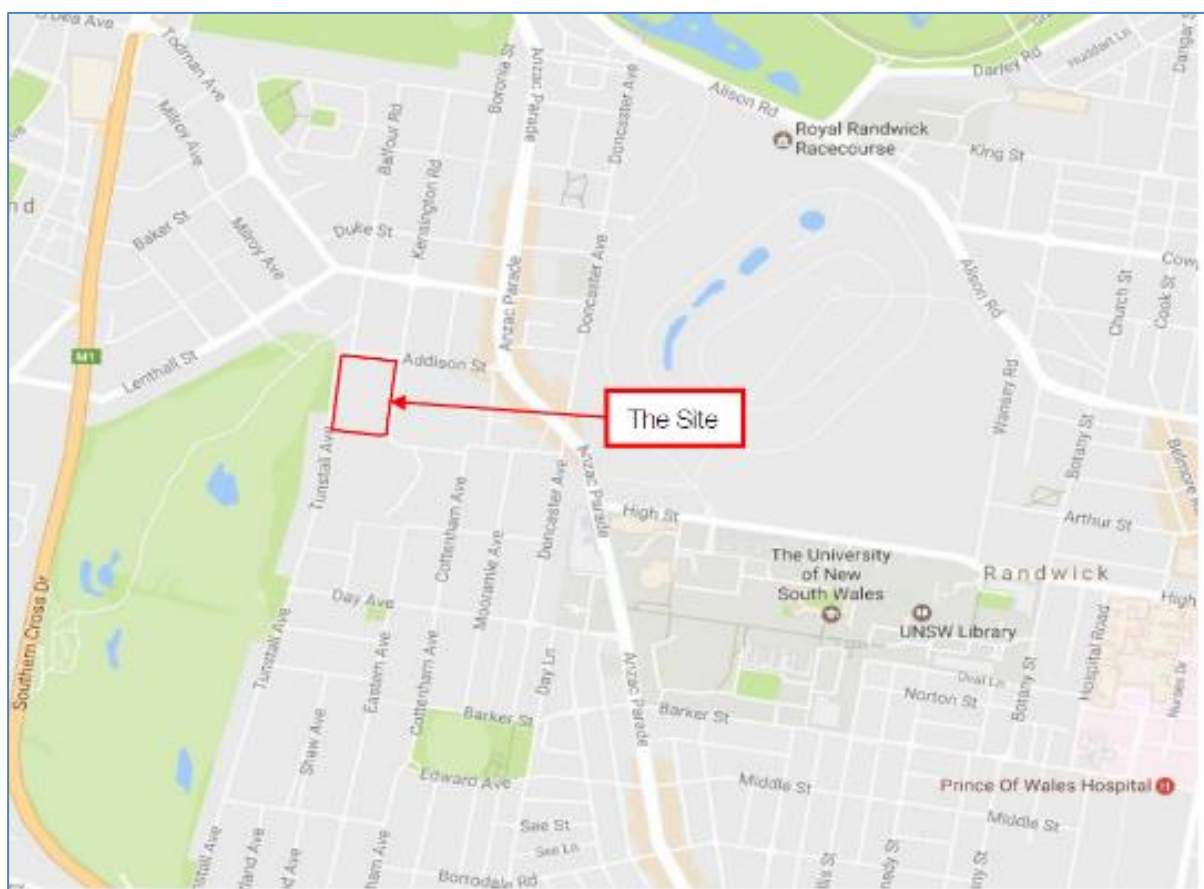


Figure 1: Locality Map (Source: SJB SEE)

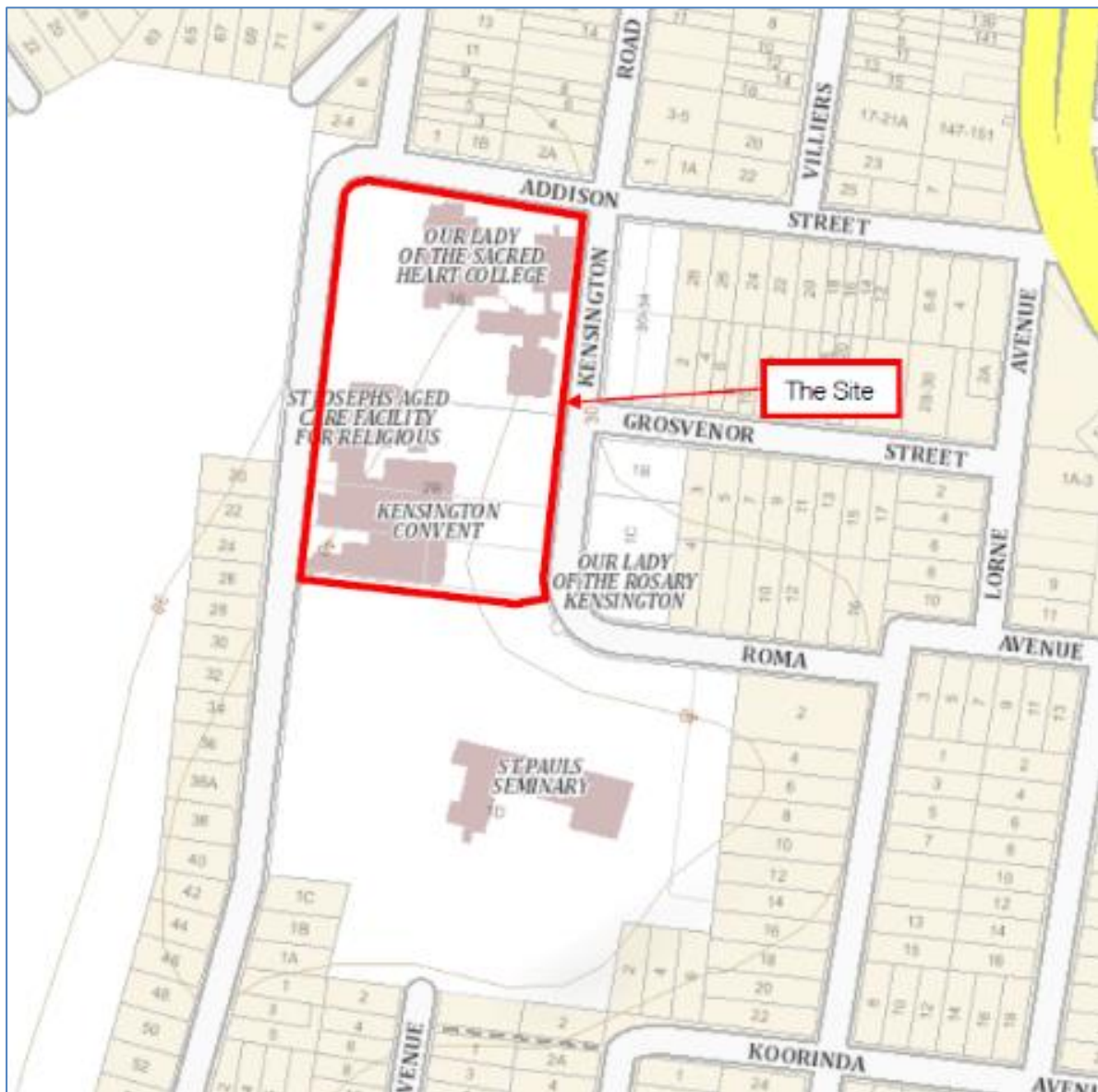


Figure 2: Site Map (Source: SJB SEE)



Figure 3: Detailed Site Map (Source: SJB SEE)

The proposal is to be located over an existing, but unused concrete tennis court between the existing aged care facility and the Our Lady of the Sacred Heart College. The proposal also involves works to the aged care facility, as detailed further below.

3.0 Relevant History

In recent years, a number of applications have been determined by Council for various works on the Site, including:

- DA-7/1979 – Alterations and additions to existing aged care facility (approved)
- DA-8/1990 – Alterations and additions to existing 2 storey St Joseph's Nursing Home and construct new parking area (approved)
- DA-200/2001 – Installation of inclinator (approved)
- DA-200/2001A – Delete entry gate within the existing wall and utilise existing entry to the south (approved)
- DA-264/2002 – Re-roof existing aged care facility (approved)
- DA-161/2008 – Demolition of the existing brick fence for approximately 64 metres along the Tunstall Avenue frontage of the site and construction of new brick fence to match the original fence (approved)
- DA-161/2008A – Modification of approved development by amending/ deleting Conditions: 21a, 21b & 26 relating to nature strips (approved)
- DA-87/2009 – Remove 1 Dying Camphor Laurel and to Prune 2 other also 2 Ficus and 4 Eucalyptus may be pruned (approved)
- DA-264/2002 – Re-roof existing aged care facility (approved)

Of particular relevance to the current application however, is DA-955/2011, for Stage 1 setting out the master plan for demolition of the existing aged care facility at the Site campus. DA-955/2011 was approved in June 2012 for a Seniors Housing development on the Site consisting of:

- Demolition of existing aged care facility;
- Construction of new six (6) level aged care facility with 128 beds;
- Car parking for 54 vehicles;
- Offices, administration, staff training area, and associated servicing areas; and
- Wellness centre.

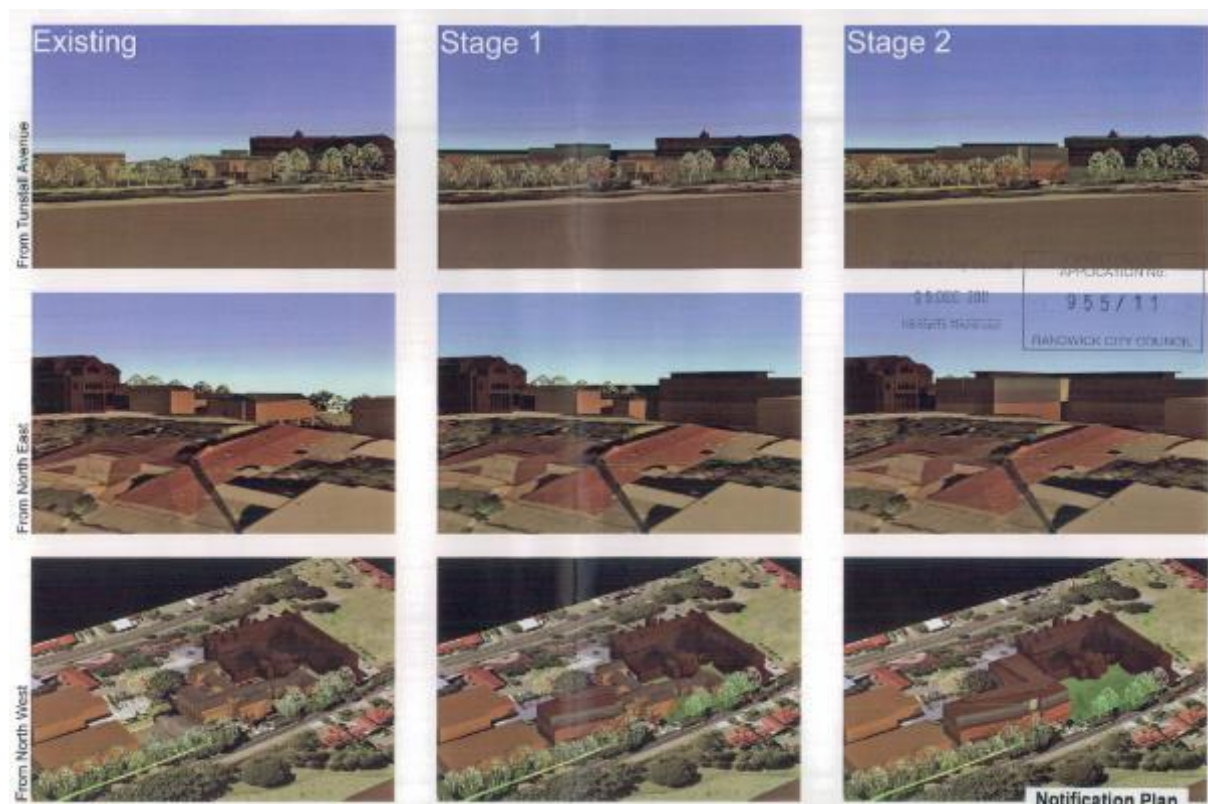


Figure 4: Montage of the Approved Development Stages

At the time, the Site was zoned 5A Special Uses under the Randwick Local Environmental Plan (RLEP) 1998, and it was considered to be permissible with consent pursuant to the provisions of the SEPP Housing for Seniors or People with a Disability (SEPP HSPD).

Since DA/955/2011 was approved, the RLEP 2012 has come into force, with the site now being zoned part SP2 Educational Establishment and part SP2 Place of Public Worship. DA/955/2011 subsequently lapsed on 12 June 2017. The RLEP 2012 does not permit Seniors Housing on the Site and accordingly, the applicant lodged a Site Compatibility Certificate (SCC) application with the Department of Planning and Environment in December 2016.

Council objected to the SCC application for the following reasons:

- The redevelopment proposal varies significantly from the approved Stage 1 Master Plan for the subject site especially in that it retains the existing intrusive nursing home building in front of the heritage significant convent and chapel buildings whereas the approved master plan proposed its demolition. The retention of the existing nursing buildings adversely impacts upon the setting and curtilage of the heritage significant convent and chapel buildings and fails to open up important views to these heritage buildings from Tunstall Avenue and beyond;
- The extension of the existing intrusive nursing home building along the entire Tunstall Street frontage creates a visually bulky and intrusive built form when viewed from Tunstall Avenue and beyond. The façade material, articulation and style of the new building accentuates its visual bulk and scale which will be incompatible with the existing heritage items in the vicinity;
- The proposed extension to, and refurbishment of, the existing St Josephs aged care building results in building facades, materials and styles that would be incompatible with the heritage items in the vicinity and adversely impacts on their curtilage;
- The proposed redevelopment removes a significant number of existing high to moderate trees while providing minimal landscaped areas that have poor relationship to heritage buildings and an overall inferior landscape plan;
- The proposed redevelopment intensifies back-of-house utilities and services (including garbage collection and deliveries) along Tunstall Avenue which will have a detrimental effect on the access and legibility of the facility, as well as, the amenity of existing residential properties on Tunstall Avenue.

The SCC was issued by the Department of Planning and Environment under Clause 25 of SEPP HSPD on 24 February 2017, subject to Council being satisfied that the final layout and number of bedrooms in the aged care development are compatible with the form, height, bulk, scale setbacks and landscaping, and that a suitably qualified heritage consultant be engaged in the design development to ensure that the final design is appropriate to the site and sympathetic to the heritage buildings on the site.

4.0 The Proposed Development

The proposed development originally comprises the following:

- A Concept Plan for the site;
- Stage 1 Detailed DA, comprising:
 - v) A Residential Aged Care Facility (RACF) providing 51 beds, and all associated support services, including lounge areas, staff facilities, kitchen, and laundry;
 - vi) Construction of undercroft car parking to provide 12 car parking spaces, an ambulance bay, and associated delivery and waste service areas;
 - vii) Repurposing of some existing floor space within St Josephs Aged Care Facility to better match current demands, and integrate with the proposed new work; and
 - viii) New street tree planting combined with landscaping works.
- Stage 2, which comprises:
 - iv) Reconfiguration of existing facilities to accommodate staff accommodation and lounge areas for residents and visitors;

- v) Repurposing of current aged care rooms as accommodation for visiting church members; and
- vi) Establishment of linkages to existing development on the site.

The applicant subsequently advised on 2 February 2018 that the proposal was in fact to be amended to a Concept Plan and a single stage DA, with all works described in stages 1 and 2 now forming the single stage, as follows:

- A Concept Plan for the site;
- A Single Stage Detailed DA, comprising:
 - i) A Residential Aged Care Facility (RACF) providing 51 beds, and all associated support services, including lounge areas, staff facilities, kitchen, and laundry;
 - ii) Construction of undercroft car parking to provide 12 car parking spaces, an ambulance bay, and associated delivery and waste service areas;
 - iii) Repurposing of some existing floor space within St Josephs Aged Care Facility to better match current demands, and integrate with the proposed new work;
 - iv) New street tree planting combined with landscaping works;
 - v) Reconfiguration of existing facilities to accommodate staff accommodation and lounge areas for residents and visitors;
 - vi) Repurposing of current aged care rooms as accommodation for visiting church members; and
 - vii) Establishment of linkages to existing development on the site.

The proposal also provides for the development to be staged in accordance with the provisions of Section 83B and 83C of the Environmental Planning and Assessment Act 1979 with the substitution of a Concept Development Application in lieu of a Development Control Plan. The phasing of works will also allow the existing residents to move out of their current accommodation and into the new accommodation pending its repurposing.

Physical staging is as detailed above and as shown in Figure 5 below:

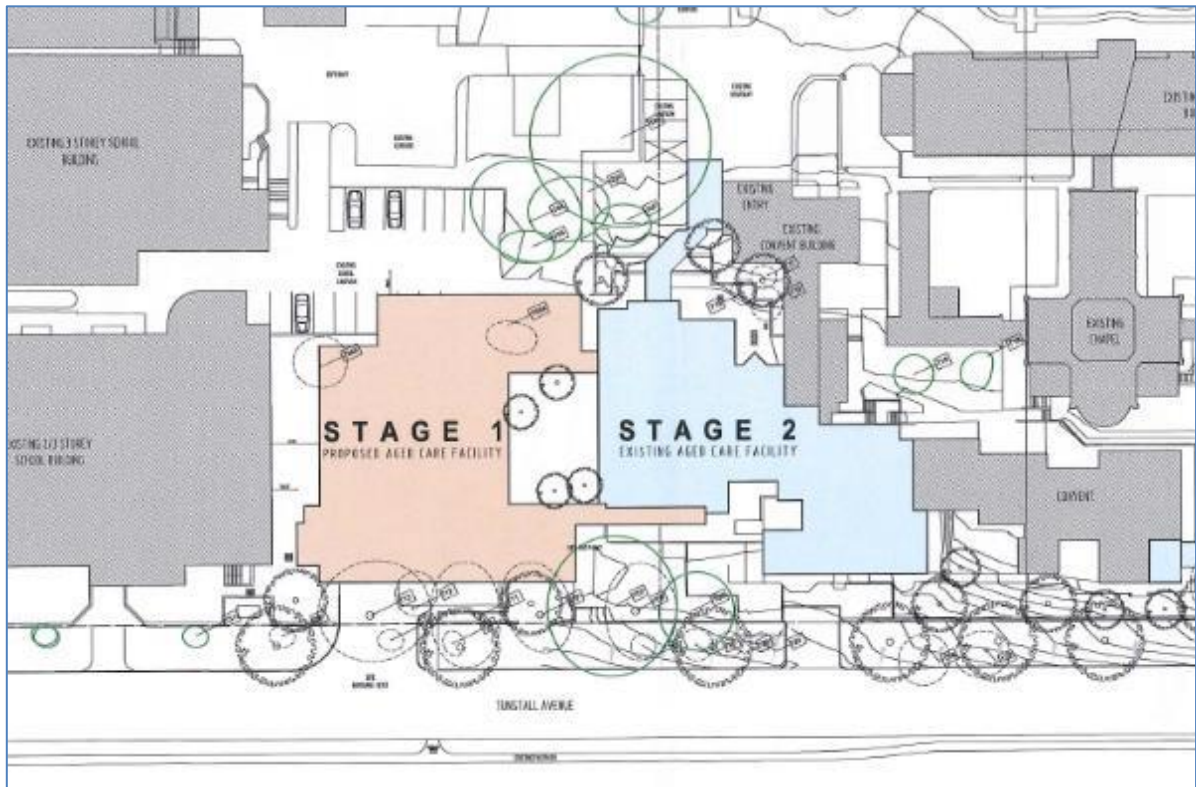


Figure 5: Proposed Staging Plan (NB: Stage 1 and 2 have now been combined into single stage)

5.0 Clause 4.6 Exception to a Development Standard:

Location and Access to Facilities

The proposal contravenes the development standard pertaining to the location and access to facilities development standard contained in Clause 26 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. In summary, Clause 26 requires the provision of a range of health, community and retail services within 400m of the subject development with specified gradients along the path of travel or access to a frequent public transport service. The Site lies within approximately 490m of such services. The applicant therefore, has submitted a written request seeking to justify the contravention of the standard pursuant to Clause 4.6(2) of RLEP 2012.

Assessment against the applicant's written justifications for the contravention of the development standard

Pursuant to Clause 4.6(3) of RLEP 2012, 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.*

Further, the consent authority must be satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

The concurrence of the Department of Planning and Environment must also be obtained for development that contravenes a development standard. However, pursuant to the Notification of assumed concurrence under clause 4.6(4) (and the former clause 24(4)) of the Standard Instrument contained in Planning Circular PS 17-006 (dated 15 December 2017) the concurrence of the Department of Planning and Environment under clause 4.6(4)(b) of RLEP 2012 may be assumed in certain cases.

In relation to the matters required to be demonstrated by subclause (3) there are various ways that may be invoked to establish that compliance with a development standard is unreasonable or unnecessary as discussed by Chief Justice Preston of the NSW Land and Environment Court in the case of *Wehbe v Pittwater Council* [2007] NSWLEC 827. Although the *Wehbe* case was decided in relation to State Environmental Planning Policy No 1—Development Standards ("SEPP 1") and not clause 4.6 of RLEP 2012 it remains of some assistance in relation to identifying the ways in which an applicant may demonstrate that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case.

Has the applicant's written request adequately addressed that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case?

In the *Wehbe* case Justice Preston said the most commonly invoked way to establish that compliance with a development standard is unreasonable or unnecessary is to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the standard. The objectives of the height of buildings standard are set out in clause 4.3(1) of RLEP 2012 as follows:

- a) To ensure that the size and scale of development is compatible with the desired future character of the locality,*
- b) To ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,*
- c) To ensure that the size and scale of development is compatible with the desired future character of the locality.*

The applicant's written justifications in the following key arguments for the departure from the standard are as below:

A development that strictly complies with the access standard is unreasonable or unnecessary in the circumstances for the following reasons.

- The site is already used for the purposes of a residential care facility. The development does not introduce an RCF to the site, rather is replacing existing bedrooms in improved facilities to ensure care is provided in contemporary standard accommodation.
- The level of care of residents is high care high dependency with 90% of the residents being infirm or suffering dementia. The majority of residents are incapable of leaving the site independently. Those that can leave are transported in light passenger vehicles as part of the care associated with the sites ownership and management by a religious Order.
- The RCF is a nursing home level of care providing on-site all meals, cleaning, primary health care and rehabilitation services which reflects the level of dependency of the residents.
- If the development were serviced self-care housing which provides a lower standard of support, clause 43 of SEPP HSPD would apply as the development is on land adjoining land zoned for urban purposes. In those circumstances, serviced self-care housing for dementia patients does not require access to services and facilities. The application is providing an RCF for infirm and dementia affected residents. The standard of care and services provided is far greater than what is provided in a serviced self-care facility. Given access is not required for the lower level of care provided in a serviced self-care facility, it is not unreasonable that strict compliance with the access standard is not achieved.

Each issue is addressed in the following sections. The assessment of the proposed variation has been undertaken in accordance with the requirements of the Randwick LEP 2012, Clause 4.6 Exceptions to Development Standards.

The Proposed Variation

1. Introduction

This is a written request to seek an exception to a development standard under Clause 4.6 – Exceptions to Development Standards of the Randwick Local Environmental Plan (LEP) 2012. The development standard for which the variation is sought is Clause 26 Location and access to services under State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (SEPP HSPD).

This application has been prepared in accordance with the NSW Department of Planning and Infrastructure (DP&I) guideline Varying Development Standards: A Guide, August 2011, and has incorporated as relevant the latest principles on Clause 4.6, contained in the following judgements:

- *Winten Property Group Limited v North Sydney Council* [2001] NSWLEC 46;
- *Wehbe v Pittwater Council* [2007] NSWLEC 827;
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 ('Four2Five No 1');
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 ('Four2Five No 2');
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 248 ('Four2Five No 3');
- *Micaul Holdings Pty Limited v Randwick City Council* [2015] NSWLEC 1386; and
- *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7.

The principles that stem from the relevant authorities may be summarised as follows:

- The relevant objectives are those stated in the controls not unidentified underlying objectives at [57] in *Four2Five No.1*;
- That the sufficient environmental planning grounds have to be particular to the circumstances of the proposed development to the site at [60] in *Four2Five No. 1*; and
- The five methods of establishing that compliance is unreasonable or unnecessary identified by Preston J in *Wehbe* remain relevant however you need something more than method 1 in *Wehbe* to satisfy the unreasonable and unnecessary test in Clause 4.6(3)(a) as that test is now encompassed in Clause 4.6(4)(a)(ii) where consistency with the objectives of the standard is a mandatory precondition; and
- *Micaul Holdings Pty Ltd v Randwick City Council* [2015] and *Randwick City Council v Micaul Holdings Pty Ltd* [2016] confirms there are four (4) tests set out in Clause 4.6 which need to be satisfied to allow the exception to the development standard.

2. Description of the Planning Instrument, Development Standard and Proposed Variation

2.1 What is the name of the environmental planning instrument that applies to the land?

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

2.2 What is the zoning of the land?

The zoning of the land is SP2 Infrastructure (Place of Public Worship).

2.3 What are the Objectives of the zone?

The objectives of the SP2 Infrastructure zone are:

- To provide for infrastructure and related uses
- To prevent development that is not compatible with or that may detract from the provision of infrastructure
- To facilitate development that will not adversely affect the amenity of nearby and adjoin development
- To protect and provide for land used for community purposes.

2.4 What is the development standard being varied?

The development standard being varied is the requirement for access to facilities and services.

2.5 Is the development standard a performance based control? Give details.

No. The access standard is a numerical control requiring nominated facilities and services to be within 400m by an accessible path of travel or accessible by public transport able to be reached by an accessible path of travel.

2.6 Under what Clause is the development standard listed in the environmental planning instrument?

The development standard is listed under Clause 26 of SEPP HSPD.

2.7 What are the objectives of the development standard?

The standard does not provide specific objectives. However, the underlying objective can be inferred as requiring that development that is made permissible by the provisions of SEPP HSPD are provided in locations that are served by financial, medical and community facilities to support the on-going and day to day needs of residents.

The development is an unusual circumstance where the residential care facility (RCF) is replacing existing nursing care accommodation on-site. The development is not introducing the development to the site, rather it is renewing and improving the quality and amenity of the accommodation to reflect contemporary standards and requirements.

2.8 What is the numeric value of the development standard in the environmental planning instrument?

Clause 26 of SEPP HSPD requires that services be within a 400m distance from the site by an accessible path of travel or that a public transport service be within 400m of the site by an accessible path of travel.

2.9 What is the proposed numeric value of the development standard in the development application?

The site of the proposed development is within 50m of a public transport bus service. These services are however timed to coincide with the operation of the schools in the vicinity.

From the site to the nearest bus stop on Anzac Parade is approximately 490m. This path traverses Kensington Road to the east, Addison Road in an easterly direction and then south along Anzac Parade to the bus stop. This path of travel also provides access to a range of minor services along Anzac Parade.

This section of Anzac Parade will also be serviced by the currently under construction light rail providing an alternate public transport linkage opportunity.

2.10 What is the percentage variation (between your proposal and the environmental planning instrument)?

The distance of 490m, exceeding the requirement by 90m equates to a non-compliance of 22.5%.

3. Assessment of the Proposed Variation

3.1 Overview

Clause 4.6 Exceptions to Development Standards establishes the framework for varying development standards applying under a local environmental plan.

Objectives of Clause 4.6 at 4.6(1) of the RLEP 2012 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."*

Clause 4.6(3)(a) and 4.6(3)(b) require that a consent authority must not grant consent to a development that contravenes a development standard unless a written request has been received from the applicant that seeks to justify the contravention of the standard by demonstrating that:

- "(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."*

Clause 4.6(4)(a)(i) and (ii) require that development consent must not be granted to a development that contravenes a development standard unless the:

- "(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"*

Clause 4.6(4)(b) requires that the concurrence of the Secretary be obtained and Clause 4.6(5) requires the Secretary in deciding whether to grant concurrence 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 Secretary before granting concurrence."*

3.2 Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

3.2.1 Is a development which complies with the standard unreasonable or unnecessary in the circumstances of the case?

A development that strictly complies with the access standard is unreasonable or unnecessary in the circumstances for the following reasons.

- The site is already used for the purposes of a residential care facility. The development does not introduce an RCF to the site, rather is replacing existing bedrooms in improved facilities to ensure care is provided in contemporary standard accommodation.
- The level of care of residents is high care high dependency with 90% of the residents being infirm or suffering dementia. The majority of residents are incapable of leaving the site independently. Those that can leave are transported in light passenger vehicles as part of the care associated with the sites ownership and management by a religious Order.
- The RCF is a nursing home level of care providing on-site all meals, cleaning, primary health care and rehabilitation services which reflects the level of dependency of the residents.
- If the development were serviced self-care housing which provides a lower standard of support, clause 43 of SEPP HSPD would apply as the development is on land adjoining land zoned for urban purposes. In those circumstances, serviced self-care housing for dementia patients does not require access to services and facilities. The application is providing an RCF for infirm and dementia affected residents. The standard of care and services provided is far greater than what is provided in a serviced self-care facility. Given access is not required for the lower level of care provided in a serviced self-care facility, it is not unreasonable that strict compliance with the access standard is not achieved.

3.2.2 Would the underlying objective or purpose be defeated or thwarted if compliance was required?

A development that strictly complied with the standard would not provide any better level of care or support. This is further reinforced when the circumstances of the development are considered that the accommodation proposed is replacing existing RCF beds with modern high quality accommodation for the infirm residents of the St Joseph's facility.

A strictly complying development would be precluded on the site. Such a circumstance should not be contemplated by the planning framework when the use has been successfully operating from the site providing high levels of care for many years.

The objectives of the SEPP HSPD to provide a range of seniors housing opportunities would be prevented if the standard were strictly applied.

3.2.3 Has the development standard been virtually abandoned or destroyed by the Council's own actions in departing from the standard?

It cannot be said that the standard has been abandoned. It is however of significant relevance that the site currently successfully provides RCF accommodation for infirm residents and the application seeks to improve the amenity and quality of that existing accommodation. A strict application of the standard would preclude the ability to consolidate the RCF beds into a new facility providing contemporary levels of care.

3.2.4 Is the zoning of the land unreasonable or inappropriate?

The zoning of the land is appropriate for the site. The RFC use is compatible with the pastoral care and support provided by the Order that owns and operates the facility.

3.3 Are there sufficient environmental planning grounds to justify contravening the development standard?

Yes. The non-compliant access allows the continuation of an existing situation where RCF beds are already on site. The development seeks to replace those beds on the site in a new contemporary building improving the efficiency of the operation and ensuring contemporary standards of accommodation are provided.

3.4 Is the proposed development in the public interest because it is consistent with the objectives of the particular standard and the objectives for development in the zone?

3.4.1 Objectives of the access standard

The underlying objective is to ensure that development permitted under the provisions of SEPP HSPD are provided in locations that are able to serve the ongoing medical, social and operational needs of residents. While the site does not strictly accord with access to services or transport within 400m there is the underlying fact that a RCF is currently on-site and has operated for many years without issue or concern. A strict application of the access provision would preclude the upgrade and replacement of those existing RCF beds in a contemporary facility. That would be inconsistent with the aims of SEPP HSPD which include increasing the supply and diversity of housing for seniors, making effective use of existing infrastructure and to be of good design. The development ensures that the existing support infrastructure on the site continues to be utilised in a contemporary manner.

3.4.2 Objectives of the zone

The objectives of the SP2Infrastructure zone are addressed as follows:

To provide for infrastructure and related uses.

The proposal provides for seniors housing as a form of residential accommodation that has been authorised through the issue of a site compatibility certificate. The proposal will allow the site to continue to meet the demand for purpose built housing in a high care facility that will meet the needs of an aging population.

To prevent development that is not compatible with or that may detract from the provision of infrastructure.

The proposal is consistent with the identified purpose of the site as a Place of Public Worship and assist in the Orders' provision of on-going pastoral care and support.

To facilitate development that will not adversely affect the amenity of nearby and adjoining development.

The proposed development, with respect to use and built form, is considered to respond to the surrounding development and wider locality.

The proposal will not generate an unacceptable adverse impact particularly in relation to residential amenity.

To protect and provide for land used for community purposes.

The site is privately owned and intended to be developed for private purposes although assisted living opportunities for seniors is of great benefit to the broader community.

In addition to its primary function, the development will also offer services to the community, including day care, overnight respite and support programs.

The proposed development is not inconsistent with the objectives of the zone.

3.5 Whether contravention of the development stand raises any matter of significance for the State or regional Environmental Planning?

The contravention of the development standard in this case does not raise an issue of State or regional planning significance as it relates to local and contextual conditions. The variation sought is responding to the broad brush nature of a control applied across an area that supports a variety of built forms that are reflective of different zones and are a function of their use.

3.6 How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act?

The objects set down in Section 5(a)(i) and (ii) are as follows:

"to encourage

- (i) The proper management, development and conservation of natural and artificial resources, including agricultural land, natural area, forest, mineral, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.*
- (ii) The promotion and coordination of the orderly and economic use and development of land..."*

A strictly complying development would prevent existing aging accommodation from being replaced with upgraded contemporary accommodation. The development does not substantially alter the number of RCF beds, rather replaces existing accommodation. Not being able to upgrade the accommodation would be contrary to the aims of SEPP HSPD and in that sense, it may be said that compliance with the standard would hinder the attainment of the objects of section 5(a)(i) and (ii) of the Act.

3.7 Is there public benefit in maintaining the development standard?

Generally speaking, there is public benefit in maintaining standards. However, in this instance there is no public benefit in maintaining the development standards, instead there is public benefit in maintaining a degree of flexibility.

In the current case, strict compliance with the access control would prevent the replacement of existing accommodation on site with contemporary accommodation and associated improved levels of service and amenity for the residents.

There is, in the specific circumstances of this case, no public benefit in maintaining the development standard, as the proposed development results in a better planning outcome for the site and the locality. In turn, there are material public benefits should it be implemented.

3.8 Is the objection well founded?

For the reasons outlined in previous sections, it is considered that the objection is well founded in this instance and that granting an exception to the development can be supported in the circumstances of the case.

The development does not hinder the attainment of the objects specified within clause 5(a)(i) and (ii) of the Act.

4.0 Conclusion

The proposed distance to facilities and services is considered appropriate to the context and circumstances of the site, and does not result in a development that would be substandard or provide a substandard level of care for the residents.

Contextually, the proposal will provide a development of a scale, form and density that appropriately responds to the site's location. In urban design terms, the outcome will be to enable consistent development in the locality and will result in a building that will offer high levels of care without adverse impacts on a site with a long association with the religious Order occupying and using the site.

This submission satisfies the provisions of 4.6(3)(a), 4.6(3)(b), 4.6(4)(a)(i) and 4.6(a)(ii) of the RLEP 2012 as it has been demonstrated that compliance with the development standards under the Location and access to services provisions of clause 26 of State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 are both unnecessary and unreasonable in the circumstances of this case. It is concluded that there are sufficient planning grounds to justify contravening the standard, the resulting development will be in the public interest and it is consistent with the implied objectives of the standard and the objectives for development within the SP2 Infrastructure zone under RLEP 2012.

In assessing whether the Applicants' Clause 4.6 exception to the development standard for the location and access to facilities is well founded, the following matters must be addressed:

Will the proposed development 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?

The objective of the standard, while not precisely stated is quite simply to ensure older people or people with a disability have access to a range of facilities and services that can be accessed to ensure their on-going health and well-being. There is a general assumption that older people or people with a disability would have a certain level of independence and mobility and hence be able to walk to these facilities or get to a public transport node that would then allow travel to a place where these facilities exist.

As noted by the applicant, the situation is unusual in that the proposal involves the construction of a new high-dependency aged care facility on a Site that already contains the same facility. The nature of the care services mean that the proposal will provide accommodation for infirm seniors whilst also offering assistance to those members of the convent requiring aged and dementia care (as the existing facility already does).

The applicant further argues that the underlying objective of the standard is to ensure that development permitted under the provisions of SEPP HSPD are provided in locations that are able to serve the ongoing medical, social and operational needs of residents. The applicant contends the operation of the existing residential care facility on the Site for many years without issue or concern demonstrates it is an appropriate use of the Site and consistent with the theological activities and services offered by the Daughters of the Lady of the Sacred Heart religious order.

The Site is zoned part SP2 Educational Establishment and part SP2 Place of Public Worship under RLEP 2012. Although the proposed use is prohibited, a Site Compatibility Certificate was issued on 24 February 2017, following the assessment of the proposal by the Department of Planning and Environment.

The proposal satisfies the relevant zone objectives, as follows:

Zone Objective	Response
To provide for infrastructure and related uses.	The proposal provides for seniors housing as a form of residential accommodation.

	The proposal will meet an increasing demand for purpose built adaptable housing, and a high care facility that will meet the needs of an aging population. The proposal is consistent with the identified use shown on the RLEP 2012 zoning map.
To prevent development that is not compatible with or that may detract from the provision of infrastructure.	The proposal is consistent with the identified purpose and existing use of the site, as well as the theological activities and services offered by the religious order.
To facilitate development that will not adversely affect the amenity of nearby and adjoining development.	The proposed development, with respect to use and built form, is considered to respond to the surrounding development and wider locality. The proposal will not generate any unacceptable adverse amenity impacts that cannot be suitably mitigated.
To protect and provide for land used for community purposes.	Although the site is privately owned and intended to be developed for private purposes although assisted living opportunities for seniors is of great benefit to the broader community. In addition to its primary function, the development will also offer services to the community, including day care, overnight respite and support programs.

Has the applicant's written request adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard?

Yes. The applicant's written request sufficiently demonstrates that there are sufficient environmental planning grounds particular to the site to justify contravening the development standard. The proposal has been carefully designed to achieve the purpose of the standard and planning objectives for the locality. It will be an appropriate fit within the scale and character of development in the immediate and broader context whilst minimising potential adverse impacts on surrounding properties.

Does the Council have delegation to exercise the concurrence function of the Department of Planning and Environment for development that contravenes a development standard? If so:

- (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.**

Comments:

Pursuant to the Notification of assumed concurrence under clause 4.6(4) (and the former clause 24(4)) of the Standard Instrument contained in Planning Circular PS 17-006 (dated 15 December 2017) the concurrence of the Department of Planning and Environment under clause 4.6(4)(b) of RLEP 2012 may be assumed to the granting of development consent to the development that contravenes the development standard requiring access to facilities and services in Clause 26 of the SEPP HSPD.

The variation sought to the 400m distance requirement contained in Clause 26 is 490m, representing a variation of 90m, or 8%. Accordingly, Council may assume the concurrence of the Department of Planning and Environment.

Variation from the adherence to the development standard will not be detrimental to the orderly use of the site and there is no public benefit in maintaining the development standard in this instance.

The proposed development and variation from the development standard does not raise any matters of significance for State or regional environmental planning.

6.0 Notification/ Advertising

The subject development was advertised/notified to surrounding landowners for a period of 14 days between 30 August 2017 and 13 September 2017 in accordance with Council's DCP. No submissions were received by Council during this period.

7.0 Technical Advice: Internal and External

7.1 Development Engineer and Landscape Officer

Council's Development Engineer has provided the following comments on the proposal:

Drainage Comments: *On-site Detention is required for this development.*

The Planning Officer is advised that the submitted drainage plans should not be approved in conjunction with the DA, rather, the Development Engineer has included a number of conditions in this memo that relate to drainage design requirements. The applicant is required to submit detailed drainage plans to the certifying authority for approval prior to the issuing of a construction certificate.

The stormwater must be discharged (by gravity) either:

- i. Directly to the kerb and gutter in front of the subject site in Tunstall Avenue; or*
- ii. To a suitably designed infiltration system (subject to confirmation in a full geotechnical investigation that the ground conditions are suitable for the infiltration system).*

Parking Provision Comments:

The application is being made under the provisions of the SEPP (Housing for seniors and people with a disability) 2004.

In Chapter 3, Part 7, Division 2, Clause 48 - Standards that cannot be used to refuse development consent for residential care facilities, 48d requires that a consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a residential care facility if at least the following is provided in regards to parking for residents and visitors:

- (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.*

For subject application consisting of 51 beds.

*Parking Required = 51/10 (beds) + 1 space for ambulance
= 5 spaces*

The SEE states that no new staff will be employed as the 51 beds will replace existing accommodation on the site no longer fit for purpose. There is an existing staff carpark accessed from Kensington Road which will remain unchanged. This statement is however inconsistent with the submitted Traffic and impact Statement by Seca Solution which states that there will be an increase of around 10 staff. This has since been corrected and the amended Traffic Impact statement indicates no increase in staff numbers.

TOTAL PARKING REQUIRED = 5 spaces (51beds) + 5 spaces(staff) + 1(ambulance)

TOTAL PARKING PROVIDED = 12 spaces + 1 space for ambulance

Off-Street Parking will be accommodated in an undercroft area accessed directly off Tunstall Avenue providing a total of 12 spaces + ambulance bay. The existing staff parking from Kensington road will also be accessed by a pedestrian walkway on Level 4. The parking provision is therefore satisfactory.

Parking Layout Comments:

Carpark Layout

The carpark layout is generally compliant with AS 2890. and no objections are raised. A loading bay and ambulance bays are also proposed in the carpark and will allow for service vehicles (up to 8.8m long rigid) and ambulances to exit and enter the site in a direction. Sweeping paths have been provided in Appendix B of the Traffic Impact statement and are satisfactory.

The access driveway across the Council Tunstall Avenue verge is indicated on the plans with a grade of 1 in 11 (9.1%). As this may be a shared pedestrian access it is recommended this grade be restricted to a maximum of 1 in 14 (7.14%) being the maximum grade permissible for wheel chaired access. This will effectively lower the driveway at the front property alignment by approximately 100mm than what is indicated. This is not expected to create any issues with internal grades. Suitable conditions have been included in this report.

Service Authority Comments

Undergrounding of site feed power lines

At the ordinary Council meeting on the 27th May 2014 it was resolved that;

Should a mains power distribution pole be located on the same side of the street and within 15m of the development site, the applicant must meet the full cost for Ausgrid to relocate the existing overhead power feed from the distribution pole in the street to the development site via an underground UGOH connection.

The subject is located within 15m of a power pole on the same side of the street hence the above clause is applicable. A suitable condition has been included in this report.

Tree Management Comments

The submitted Arborists Report states of the 31 trees assessed at this site, all 10 of high significance will be retained, and while 21 will be removed, they are all of low value or poor quality, as discussed below.

The inspection of 23 October 2017 revealed a variety of trees on Council's Tunstall Avenue verge, comprising firstly, over the northern half of the frontage, a row of three juvenile, 2-3m tall *Ulmus parvifolia* (Chinese Weeping Elms), being one in

line with the northern site boundary (T30), then a further two on the southern side of the existing power pole (29-28).

These trees are part of a formal strategy in this street, and despite their small size, are still covered by the provisions of Council's DCP, and in time, will create a highly desirable avenue effect by linking up with the canopies of the established Figs on the western side of the road, on the Golf Course, as well as the new feature trees that will be planted within the site.

The Level 1 Floor Plan (dwg DA 3.03.01) shows that a new vehicle crossing will be provided at the northern end of the site, between T28-30, in direct conflict with T29, with the existing pole to be relocated and power to be undergrounded.

Given the small size of T29, no objections are raised to its removal as shown, and while there may be a need for some re-grading/battering on either side of the crossing due to the difference in ground levels between the road and property boundary, the northern edge of the new crossing will be some 7m to the south of T30, with the southern edge of the crossing to be about 5m from T28, so on this basis, both should be able to be retained, so despite being shown and listed for removal, the setbacks referred to here will be sufficient to ensure they can remain in-situ, with relevant conditions provided.

Further to the south, just north of the existing loading dock and crossing (which are to remain), there are two Eriobotrya japonica (Loquat's, T26-27), being one each on either side of the power pole, of 3-4m x 3-4m, then two, 3-4m tall Mangifera indica (Mango's, T24-25), which were all planted by a resident, not Council.

Immediately south of this crossing, there is then a 5m x 5m Agonis flexuosa (Willow Myrtle, T23) of poor condition, then a similarly sized Schinus areira (Peppercorn, T22), a smaller Frangipani, then around the southern extent of the works, a group of Hibiscus tileaceus (Cottonwoods) and Wattles.

While no external works are shown in the area between the southern edge of the loading dock and the southern site boundary, all of this southern group are still shown/listed for removal, purely to allow them to be replaced with Elms, so as to link up with those that already exist over the northern half of the site.

Given the small size of these trees combined with the large scope of works involved with this application, their removal can be supported in this case, as this will achieve uniformity and consistency in our streetscapes, which is one of the main objectives of Council's Street Tree Masterplan, and on this basis, conditions allow their removal and replacement, only by Council, and wholly at the applicants cost.

The standard loss of amenity fee that is usually applied in these cases will not be charged in this instance given the low quality/value of the species involved, as well as the fact that the streetscape will be drastically improved by new plantings along the length of this frontage.

Growing wholly within the site, against the northern half of the western site boundary/existing brick wall/fence, there is a closely planted row of trees which due to a combination of their co-joined canopies and elevated position above street level, were observed to have a presence in the local landscape, and assist with screening of the existing multi-story buildings within the school grounds on the streetscape.

They comprise from north to south, three Quercus robur (English Oaks, T13, 11-10), which is an exotic, deciduous species, and a Erythrina x sykesii (Coral Tree, T12), which is exempt from Council's DCP due to being an environmental weed.

All four are in direct conflict with the new crossing and building that is shown for this same area, and as none are significant in anyway, consent has been granted for their removal, with the Landscape Plan showing that adequate replacements will be provided in their place in this area by way new feature trees along the length of this frontage, which will ensure this screening function and presence in the streetscape is maintained into the future.

The two 4.5m tall Acacia saligna (Wattles, T06 a-b) to the east of those described above are insignificant and in direct conflict with the new footprint, so can also be removed as shown.

To their south, there are two mature native species, being a 17m tall Eucalyptus botryoides (Bangalay, T07), and a 14m tall Casuarina cristata (Belah, T09), both of good health and condition, are covered by Council's DCP, and have been assigned a 'High Priority' for retention due to a combination of their presence in the streetscape, size and ability to 'link up' with the Figs on the Golf Course grounds to the west.

Both the plans and Arborist Report all show that the existing building/footings and raised concrete hardstand to their east will be retained in-situ, along with the existing stairway to their north and masonry boundary wall/fence to their west, with the existing ground levels/grass area to also remain, which will be converted into a 'grass terrace'.

While the new building (over the existing tennis court) will encroach slightly into the northeast aspect of the TPZ of T07 (less than 10%), consultations with the Arborist have resulted in this part being able to be suspended above existing ground levels, through the use of a supporting column, which importantly, avoids major impacts on its root system when compared to more traditional bulk excavations and earthworks, and as such, conditions formally require the use of these measures to ensure both trees are retained as existing site features.

The Erythrina x sykesii (Coral tree, T08) in this same area has been suppressed by the two larger, more dominant trees on either side, and can be removed for the same reasons already given for T12 above.

The 6m tall Melaleuca armillaris (Bracelet Honey Myrtle, T21), near the southwest corner of the site is in poor condition, so despite being a native species, can be removed so as to make way for the formal arrangement of tiered native screening trees that are shown for this same area.

While the two trees on higher ground to the east of those described above, within the existing courtyard on Level 3, to the north of the Chapel, are shown as remaining, being a Flowering Cherry (T18) and a Frangipani (T19), both are too small (4m) for the provisions of Council's DCP, so conditions requiring this cannot and have not been provided.

Similarly, the other group further to the northeast again, adjacent the existing Aged Care Administration building, being two Citrus (T15-16) and a Blueberry Ash (T17), are also exempt due to their small size, and as they are in direct conflict with the works, can be removed as shown.

Further northeast again, in the northeast corner of the site, adjacent the historic Convent building, there is a group of mature native trees, some of which are

identified as significant examples of their respective species, most of which have been assigned a 'Moderate' or 'High Priority Retention' rating.

They comprise from east to west, an 8m tall Banksia integrifolia (Coastal Banksia, T14), which is a native coastal species, that despite being sited beyond the extent of works, will still need to be protected to ensure its retention.

Centrally in this area, there is a large and mature, 18m x 12m Ficus microcarpa var. 'Hillii' (Hills Weeping Fig, T01) of good health and condition, which is covered by the DCP, and is the most significant tree assessed for this application, with the Arborist Report and plans confirming that as all existing surfacing and pathways will remain in place, no incursions or major impacts should result from the works, so can be retained, subject to protection conditions.

The same also applies to the others in this group, to the west of T01 described above, being an 18m tall Angophora floribunda (Rough Barked Apple, T02), a 9m tall Flindersia australis (Teak, T03), and two Eucalyptus botryoides (Bangalay), with T04 being 21m x 8m, and T05 measuring 9m x 6m, with relevant protection measures for these imposed as well.

Landscape Plan Comments

The submitted Plans show a high level of detail that will both improve presentation of the site/development to the streetscape, as well as provide a high quality of amenity to future occupants, with conditions requiring that this scheme be fully implemented as part of any consent.

7.2 Heritage Planner

Council's Heritage Planner has provided the following comments on the proposal:

Controls

Clause 5.10 of Randwick LEP 2012 requires Council to consider the effect of the proposed development on the heritage significance of the heritage item.

Clause 5.10(5) of Randwick LEP 2102 allows council to require the preparation of a heritage management document that assesses the extent to which the carrying out of the development would affect the heritage significance of the heritage item.

In relation to Infill buildings, the Heritage section of Randwick DCP 2013 advises that an infill building must respect and be sensitive to its neighbours, and should be in keeping with the streets established setbacks, scale, form and materials.

Submission

The proposal has been accompanied by a Heritage Assessment and Conservation Development Analysis by John Oultram dated July 2017 together with a Heritage Impact Statement prepared by John Oultram in December 2016. The submissions draws on the Daughters of Our Lady of the Sacred Heart Convent Conservation Analysis and Guidelines prepared in 1996 by Clive Lucas Stapleton and Partners.

Heritage Assessment and Conservation Development Analysis

The submission provides dates of construction for all buildings on the site and ranks their significance. The original convent building was constructed in 1896 with additions in a number of stages between 1907 and 1937. The convent wing along the southern boundary was constructed in 1954 with additions at the western end in 2000. The provincial house and aged care facility was constructed in 1973 with additions in 1979, 1983 and 1991. The submission includes a Significant Buildings diagram which ranks the Convent building (including its additions), the Chapel, and St Josephs' and St Michaels' cloisters as having high

significance, while later buildings including the Provincial House and the St. Joseph's Aged Care buildings are ranked as having little significance or as intrusive. The submission includes a Landscape and Views diagram which ranks the open spaces to the east of the Convent building and to either side of the Chapel as having high significance, while the open spaces to the north of the Convent and areas adjacent to Tunstall Avenue towards the northern and southern ends of the aged care facility are ranked as having moderate significance, and area to the north of the aged care facility as having little significance. The submission indicates Primary views towards the Convent from the east, and to and from the Monastery to the south east, and Secondary views to and from the Convent from the west.

The Heritage submission includes a discussion of Development Areas, providing a plan identifying areas for redevelopment at higher scale and areas for redevelopment at lower scale. The submission notes the importance of the landscaped areas to the east of the Convent, but suggests that the area to the west of the Convent could be developed at higher scale. The submission notes that development in this area is unlikely to impact on the setting of the Convent and views to the Convent, which area currently blocked by the existing aged care facility. The submission recommends that any development in this area, should respond to the scale of the adjacent heritage buildings, by being no higher than the eaves of the Convent where development is close to the rear sections.

The Heritage submission recommends any development should retain the dominance of the early Convent buildings and Chapel; provide adequate setbacks to the heritage buildings; retaining if possible the central fig tree; and maintain views for the rear of the Convent to the east. The Heritage submission recognises the opportunities to enhance the site by providing below ground parking and removing intrusive elements. The Heritage submission does not address archaeological issues or landscape impact and does not address the heritage impact of the current proposal.

Heritage Impact Statement

The HIS was prepared to accompany the site compatibility application submission which included a concept design for the site, depicted in a set of architectural and landscape drawings prepared prior to the documentation which was submitted with the pre-lodgement proposal or the current development application. The description of the proposed development suggests that the concept plans are similar to the current proposal, however this cannot be verified.

In relation to excavation and archaeology, the HIS notes that aerial photographs indicate no previous buildings on the development site, and concludes that its archaeological development potential is low. In relation to demolitions, the HIS notes that demolition is limited to parts of the existing aged care building and the wall to Tunstall Avenue. The HIS notes that the current aged care building has no significance and the limited demolition will have no impact on the overall significance of the place. The HIA notes that the Tunstall Avenue wall dates from the early development of the convent, forms a continuous boundary around the site of the convent, school and monastery, and is a distinctive feature of the site. Part of the Tunstall Avenue wall will be removed for access, but the HIS advises that the extent of new openings be limited.

In relation to the new building, the HIS considers the location, setbacks, form, height and materials to be appropriate. In relation to landscape, the HIS advises that there will be no loss of landscaped area on the site and the major trees to higher level will be retained. The HIS notes that the removal of trees along Tunstall Avenue will impact on the setting of the aged car building rather than the convent. In relation to the convent bridge link, the HIS advises that this structure

will affect later extensions rather than original buildings, and will not affect significant views or significant landscape area.

The HIS concludes that the works in the proposed concept plans involve limited demolition or alteration of significant fabric and important landscape elements. The HIS recommends in relation to the Tunstall Avenue Wall, that the extent of new openings should be limited to only the minimum required, and if feasible should be located between the pier bays. The HIA notes that the pedestrian gate adjacent to the basketball court and the current loading dock (no longer required) should be infilled with salvaged bricks.

Comments

Retention of existing aged care facility

The consultant Heritage Assessment submitted in conjunction with the previous proposal noted that the removal of the current aged care buildings would have a positive impact on the setting of the convent and chapel open up important views to it from the west. While the earlier pre-lodgement application proposed demolition of the existing aged care facility, the current pre-lodgement proposes to retain the two and three storey facility. No heritage objections were raised to the demolition of the existing nursing home buildings which due to their intrusive siting, informal layout and unrelated materials and finishes are not sympathetic to the earlier convent buildings. The proposed siting for the new aged care facility allowed for a generous courtyard between Tunstall Avenue and the convent chapel opening up views from the west which are currently obscured. The removal of the existing intrusive building as part of the earlier proposal mitigated the impact of the new development. The retention of this building as part of the current proposal provides no mitigative advantage for the new development. There are concerns that the upgrading of the existing intrusive aged care facility will reduce the likelihood of its future removal.

New development

The new building is sited on the former school basketball courts, avoiding impact on significant landscaped areas. The new building is consistent with the setbacks of adjacent development on Tunstall Avenue and is separated from the early convent and chapel buildings by late twentieth century development.

Buildings along Tunstall Avenue, including the school, convent and aged care buildings, have a varied scale. The new building is not inconsistent with the scale of adjacent development on Tunstall Avenue and will remain secondary to the early convent and chapel buildings. The roof level of the new buildings will be below the eaves level of the adjacent convent buildings.

The proposal adopts an approach of providing an uncomplicated building envelope, minimising articulation and modulation of building bulk. The reasonably simple footprint proposed for the new building relates to the formal layout of earlier buildings. It is considered that the new building generally respects and is sensitive to its neighbours.

The new building will not impact on primary views to the rear of the convent to the east, or to and from the Monastery to the south east. Similarly the new building will not impact on secondary views to and from the convent from the west.

The existing convent buildings are characterised by their uniform dark decorative brickwork, while the existing aged care is in blonde brickwork and the adjacent development on the school site includes dark brick, dark cladding and dark metal screens. Materials and finishes for the new development include a cream terracade clad base and a charcoal terracade clad top level and parapet, as well as patterned perforated mesh screens and patterned semi-opaque film to glazing.

If successful, the dark terracade upper level will recede relative to the light terracade lower levels. The proposed diversity of building materials for buildings along the Tunstall Avenue frontage seeks to relate the new building to existing adjacent development while avoiding a complex juxtaposition of forms and materials which would compete with and dominate the original buildings.

Landscape

The existing boundary wall to the Tunstall Avenue frontage has been constructed at various times and interrupted by the school building to the north. A 64m length of the 80 year old wall along Tunstall Avenue was subject to like-for-like replacement through a 2008 development application, due to structural issues. The integrity of the existing wall will be further interrupted by the shared pedestrian and vehicular access which is to be provided. The HIA has provided recommendations to infill redundant openings, to limit new openings, and in relation to the detailing of new openings. The application indicates openings in the wall around 64m in length. Appropriate consent conditions should be included.

A number of existing trees will be lost in front of the proposed building, but are apparently to be replaced by new plantings on the Tunstall Avenue verge, which may assist in screening of the proposed development. It appears that the central fig tree and major mature trees around the existing aged care building are to be retained.

Archaeology

The new building is to be sited in the area currently occupied by tennis courts, which date from the 1960s or early 1970s. It is likely that the levelling of the site for the construction of the tennis courts has removed the ground surfaces. A consent condition should be included to provide procedures in the unlikely event of discovery of archaeological material.

7.3 Sydney Airport Corporation Limited

A Controlled Activity Approval was issued for a maximum height of 51.42m AHD by Sydney Airport Corporation Ltd on 5 January 2018, subject to the following conditions:

1. The building **must not exceed** a maximum height of **51.42 metres AHD**, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues etc.
2. The Proponent **must advise** Airservices Australia at least three business days prior to the controlled activity commencing by emailing <ifp@airservicesaustralia.com> and quoting SY-CA-559.
3. Separate approval **must be sought** under the Regulations for any construction equipment (i.e. cranes) required to construct the building. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Regulations. Therefore, it is advisable that approval to operate construction equipment (i.e. cranes) be obtained prior to any commitment to construct.
4. At the completion of the construction of the building, a certified surveyor is to notify (in writing) SACL of the finished height of the building.

7.4 Design Review Panel

Council's Design Review Panel reviewed the proposal on 7 August 2017 and provided the following comments:

INTRODUCTION

Attached is a copy of the minutes relating to this SEPP 65 meeting.

The Panel's comments are intended to assist Council in their design consideration of an application against the SEPP 65 principles. The absence of a comment under a head of consideration does not imply that particular matter to be satisfactorily addressed, more likely the changes are suggested elsewhere to generate a desirable change.

Your attention is drawn to the following;

- 1. SEPP 65, including the 9 Design Quality Principles and the requirements for a Qualified Designer (a Registered Architect) to provide Design Verification Statements throughout the design, documentation and construction phases of the project.*
- 2. The Apartment Design Guide, as published by Planning NSW (July 2015), which provides guidance on all the issues addressed below.*

Both documents are available from the NSW Department of Planning.

Note:

The Design Review Panel is appointed by the NSW Minister for Planning, on the recommendation of Council. The Panel's written and verbal comments are their professional opinions and constitute expert design quality advice to Randwick Council, the architect and the applicant.

- 1. To address the Panel's comments, the applicant may need to submit amended plans. **Prior to preparing any amended plans or attending additional Panel presentations, the applicant MUST discuss the Panel's comments and any other matter that may require amendment with Council's assessing Planning Officer.***
- 2. When addressing the Panel's comments by way of amendments, if the applicant does not propose to address all or the bulk of the Panel's comments, and wishes to make minor amendments only, then it should be taken that the Panel considers the proposal does not meet the SEPP 65 requirements. In these instances it is unlikely the scheme will be referred back to the Panel for further review.*

PANEL COMMENTS

The proposal is for a staged development for senior housing development at the Daughters of Our lady of the Sacred Heart. This is the second time this proposal has come before the Panel. A previous DA for a significantly larger scheme for this site was approved but has since lapsed.

The current proposal has scaled back the proposed number of beds and places more emphasis on the reuse of existing building fabric.

Principle 1: Context and Neighbourhood Context

The site is located in an educational precinct within a residential area. The surrounding area contains a mixed typology of single family residences and residential flat buildings. It is approximately 400m to Kensington Centre on Anzac Parade.

The site is visually prominent and sits on a ridgeline overlooking a golf course to the west. There is a significant fall across the site from east to west of approximately 2 levels.

The larger educational precinct features a number of heritage buildings, including the Daughters of Our Lady of the Sacred Heart Convent, Our Lady of Rosary Church and the Missionaries of the Sacred Heart Monastery. Landscape areas with high and moderate significance occur in the precinct but are not contiguous with the subject site or affected by the proposal. Our Lady of the Sacred Heart College also occupies a significant portion of the precinct – it does not have a heritage listing.

The character of residential fabric includes a mix of styles and sizes but is predominately finished in brick. Street tree cover is somewhat limited except in the area adjacent to the site where significant fig trees line the boundary with the golf course. A three story residential flat building in art deco style is located near the site on Addison Street.

Principle 2: Scale and Built Form

Buildings within the site range from 2 to 4 level school buildings, religious residential accommodation and ecclesiastical buildings. Adjacent residential buildings along Tunstall Street and Addison Street range from 1 – 2 levels. A 3 level residential flat building is nearby on Addison Street across from the school.

Heights indicated in the proposal are generally consistent with those currently in the precinct. Buildings immediately adjacent to the site are 2 levels and 4 levels.

Principle 3: Density

The site is zoned SP2 Special Area. It is noted that aged care living not permitted in this zone however it is already located in the precinct. A site compatibility permit has been issued for the proposal.

The density of the proposal is considered suitable given the extent of protected open space within the precinct.

Principle 4: Sustainability

Further considerations:

- *The method of window operation and their fire treatment on each elevation should be indicated on the drawings.*
- *Solar panel zones on the roof should be considered.*
- *On-site water harvesting, storage, treatment and re-use are to be identified.*
- *It is understood that residents generally need a controlled climate environment however consideration should be given to providing for natural ventilation on the many days in Sydney when this should be possible without causing environmental extremes in indoor areas.*
- *Ceiling fans for bedrooms and living areas - these should be marked on the plans.*
- *Outdoor clothes drying areas should be indicated.*

Principle 5: Landscape

- *Landscape plans developed by a qualified landscape architect have been provided.*
- *The Panel notes that previous comments regarding the protection of landscape along Tunstall Ave have been incorporated in that several large trees have been retained in that location.*
- *The Panel notes that new street planting is also proposed along Tunstall Ave to mitigate visual impacts of the proposed development and to compensate for the removal of trees adjacent to the project site.*
- *More should be made of courtyard as the main shared activity space on Level 2: consider relocating the lifts away from the courtyard perimeter, and relocate activity area to front on courtyard. Can kitchen be moved to provide dining opening to courtyard?*

- *How has landscape in secured areas incorporated concepts for a 'dementia garden' into species and layouts?*
- *The main courtyard should be developed with more socialising space, not just single isolated benches.*
- *Grading at the new entrance along the verge needs to be clarified. It is noted that the new drives proposed will require cutting into the embankment at this area.*

Principle 6: Amenity

- *Cross ventilation does not meet SEPP 65 requirements. It is understood that, due to medical conditions, the residents need controlled climate environment however it would be commendable to introduce the potential for better natural ventilation into the residential areas.*
- *It is not clear if solar access requirements have been met.*
- *The central courtyard will be fully shaded in winter. Consideration should be given to improving its solar access. If the top floor activity room were relocated to directly face the courtyard, the roof edge could be lowered and cut back to allow more sun into the room and the courtyard.*
- *Details of privacy screens to be provided. It is not clear if they provide adequate screening on the western elevation. It is also not clear if they are movable and, if so, how and by whom they will be operated.*
- *The three bedrooms on east side appear awkward in the layout. They are separated from the main bedroom area and exposed to the activity of the social areas. This configuration also forces the adjacent social area towards an internalized layout. This area should be replanned so that all bedrooms are grouped together and the social space shifted to face both the courtyard and the eastern façade. In this way the courtyard can become a focus for residents and the social space can benefit from morning and afternoon light.*

Principle 7: Safety

- *It is noted that the design has incorporated Panel comments regarding drive access and that the design has been revised to allow vehicles to enter/leave in forward direction.*
- *Turning circles for ambulance service need to be provided.*

Principle 8: Housing Diversity and Social Interaction

- *The Panel supports the provision of aged care on the site as a part of an overall Council strategy to provide for aging in place. It is noted that the proposal does not seek to make full utilization of the approved bed licence.*

Principle 9: Aesthetics

- *Upper levels of the proposal look heavy with the dark colour covering about a third of the elevation. Consider using a lighter colour.*
- *The elevational study picks up a number of references that could influence the architectural approach, including the use of brick, vertical and horizontal expression and roof profiles. The form appears to be referencing the contemporary school building to the north, whilst colour palette relates more to the existing buildings to the south. No reference has been made to the eastern elevation or relationship to the heritage listed convent buildings. Greater clarity on the design decisions that have led to the proposed design should be provided*
- *The design of the pedestrian bridge located to the south features an aluminum perforated screen, which fails to respond to the architectural character and materiality of the adjacent buildings. A more contextually sensitive and considered approach is desirable.*
- *Upper levels need to be better integrated with lower levels*
- *The previous Panel comments made reference to investigating a pitched roof. Given the design approach to provide a contemporary look it is understandable that this may not be considered an appropriate way forward. In addressing the*

issue of roof profile, consideration should be given to providing greater articulation along this edge to reduce the building bulk and modulate its scale as seen against the range of built forms in the precinct. The single slope roof, behind the parapet, appears to be driving the height of this element.

- *The overall form, massing, detail and materiality could use some refinement to better relate to context.*
- *The internal courtyard elevations need further development to respond to and animate the space.*

SUMMARY AND RECOMMENDATIONS

- *In general the proposal appears well sited and consistent with the use and built form fabric of the site.*
- *Further development of internal space planning to rationalize the public/private organization is warranted.*
- *While the specific climate control needs of the residents are noted further efforts to introduce natural ventilation and light into the building should be considered.*
- *The previous Panel comments noted a request for a site specific DCP and a masterplan. The site plan provided gives building to building separations and relationships but does not address masterplan aspects such future of the precinct and whether additional buildings are being considered in the precinct. The masterplan should indicate this.*
- *Further consideration should be given to building and roof articulation along the Tunstall Avenue side of the building.*
- *The panel would welcome the opportunity to review the development of the architecture, taking into consideration the comments noted above.*

It should be noted that despite the Panel's response, SEPP 65 does not apply in this instance. Notwithstanding this, the applicant responded as follows:

In response to these issues, the application package has provided greater context analysis to identify how the new building fits into the broader site context.

The design has been revised to allow all vehicles to the new building to enter and exit in a forward direction. This re-planning has allowed for tree retention to the Tunstall Avenue frontage, less intervention to the perimeter brick walls, and greater opportunity for new landscaping to be implemented.

The treatment to Tunstall Avenue has removed the domination of driveways previously raised as a concerns, and facilitates a direct pedestrian access from Tunstall Avenue.

It is also stressed that the application is for aged care in a nursing home environment. To this end, given the high level of care, and the sensitivity of residents to significant fluctuations of heat and cold, there is a necessity for a highly controlled climatic environment. The residents are not self-care residents but range from medium to high care, and dementia patients. The design has provided shading and planter opportunities where possible.

The revised design and materials palette has been the subject of considerable design resolution and input from the project heritage advisor, to provide a suite of materials that do not compete with the heritage significant buildings on the site, but allow the building to be read as part of the evolution of the sites use by the Church.

A further submission was made by the applicant following the briefing of the Sydney Planning Panel (SPP) on 8 January 2018, as follows:

Principle 1 Context and Neighbourhood Context

No issues arising from the panels comments

Principle 2 Scale and Built Form

No issues arising from the panels comments

Principle 3 Density

No issues arising from the panels comments

Principle 4 - Sustainability

Outdoor clothes drying areas were suggested. The facility is providing nursing home levels of care with no independent living. The laundry is of a commercial standard to ensure infection control is able to managed. On that basis, no outdoor clothes drying is proposed.

Principle 5 - Landscape

The landscape has not been altered to accommodate dining opening to the courtyard. Reflecting the types of high care accommodation, climate control through mechanical means is critical given the care levels of the residents. The residents are substantially infirm and in many instances not independently mobile. The planning of the lifts has been maximised to provide operation efficiencies for a hospital like operation balancing the opportunities for outlooks, solar access and operational efficiency.

Principle 6 - Amenity

The provisions of the ADG do not apply as detailed above. A RCF is not required to meet the cross ventilation and solar access requirements of a residential flat building.

The layout has responded to the client brief and their extensive knowledge and experience in providing high levels of care to frail, infirm and dementia affected residents.

Principle 7 - Safety

The ambulance bay is supported by a traffic assessment confirming its suitability and useability. The panel noted that its previous concerns and comments relating to access have been incorporated into the design.

Principle 8 - Housing Diversity and Social Interaction

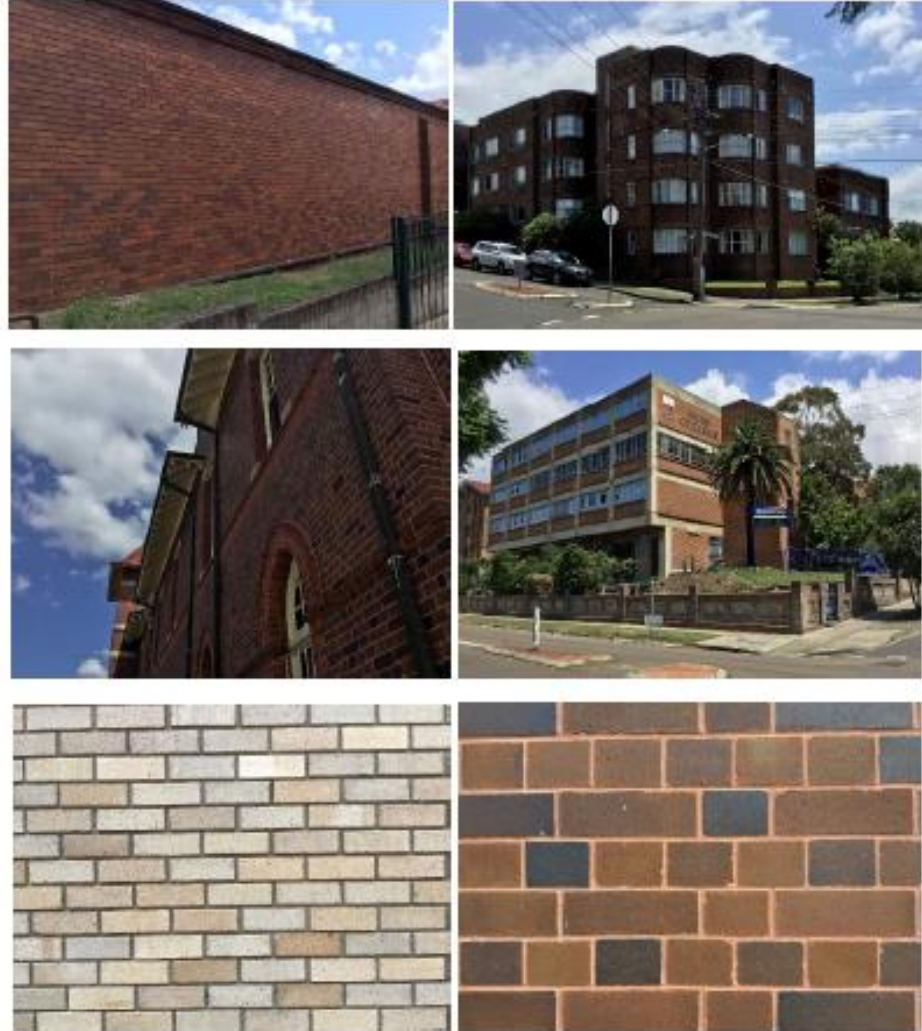
No issues arising from the panels comments

Principle 9 - Aesthetics

Upper levels of the proposal look heavy with the dark colour covering about a third of the elevation. Consider using a lighter colour.

Design Response:

- The colour selection of the façade responds to a contextual brickwork study by the design team of the surrounding precinct. The contrast created by the façade colour selection helps to identify the new extension amongst the existing brick facades.



The elevational study picks up a number of references that could influence the architectural approach, including the use of brick, vertical and horizontal expression and roof profiles. The form appears to be referencing the contemporary school building to the north, whilst colour palette relates more to the existing buildings to the south. No reference has been made to the eastern elevation or relationship to the heritage listed convent buildings. Greater clarity on the design decisions that have led to the proposed design should be provided

Design Response:

- The form, mass and façade articulation of the building continues the design intent of the western elevation along Tunstall Avenue to provide for a consistent architectural datum in the streetscape.
- The use of cream terracade provides a line of continuity with the existing adjoining building without trying to mimic its style.
- The expressed horizontal breakup of the terracade cladding to the western façade at each floor level refers back to the horizontal brickwork detail of the heritage convent.



The design of the pedestrian bridge located to the south features an aluminum perforated screen, which fails to respond to the architectural character and materiality of the adjacent buildings. A more contextually sensitive and considered approach is desirable.

Design Response:

- The motif design of the screening was inspired by an abstraction of the masonry lattice tracery of the chapel building façade and arranged in a contemporary expression.



- The architectural elements of the bridge form are designed to be recessive. The dark steel structure recedes into the landscape to reduce its presence on the elevation. The perforated screening to the bridge creates intricate visual pattern and provides heat protection.

Upper levels need to be better integrated with lower levels

Design Response:

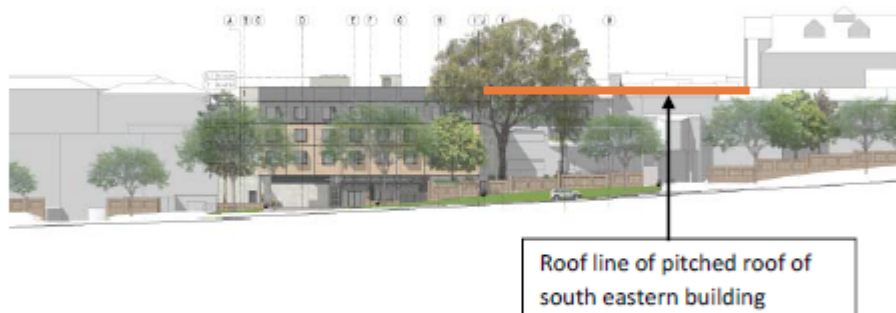
- The design responds to the stratification of the site, integrating the contemporary school building to the north and the existing building to the south to create interest in the streetscape.



The previous Panel comments made reference to investigating a pitched roof. Given the design approach to provide a contemporary look it is understandable that this may not be considered an appropriate way forward. In addressing the issue of roof profile, consideration should be given to providing greater articulation along this edge to reduce the building bulk and modulate its scale as seen against the range of built forms in the precinct. The single slope roof, behind the parapet, appears to be driving the height of this element.

Design Response:

- The design of the roof maintains a low profile as far as possible and allows the roof plant to be sited at a low level and recessed back from the street elevation. The height of the parapet serves to avoid unsightly fascia gutters and the roof plant. The single roof slope intends to protect from water ingress, avoiding potential ingress from internalized box gutters.
- The proposed roof line corresponds to the adjoining building's roof pitch line.



The overall form, massing, detail and materiality could use some refinement to better relate to context.

Design Response:

- The development application drawings submitted in August 2017 have responded to the design panel's previous recommendations from 5th December 2016.
- We believe the design has addressed the overall form and massing by creating a stepping relationship to the surrounding buildings on Tunstall Avenue. The design process addressed the site's Tunstall Avenue streetscape and the presentation of the building to the street with a number of strategies, including limiting the brick wall openings to the driveway and pedestrian entry as far as practical to allow for continuity of the heritage brick wall.
- The design articulates the ground, middle and datum at the upper levels of the building with a vertical grain detail. It references the colour palette of the surrounding materials a presents a contemporary design in a restrained manner.

The internal courtyard elevations need further development to respond to and animate the space.

Design Response:

- Further refinement into the design development phase would enhance the design response previously submitted to a schematic design level.

Overall, it is considered that the applicant has sufficiently addressed the concerns of the Design Review Panel.

8.0 Environmental Planning and Assessment Act 1979 (EP&A Act 1979)

Relevant to the proposal are the provisions of Section 83B, Section 83C and Schedule 4A of the EP&A Act 1979.

Section 83B relates to Concept Development Applications and states as follows:

83B Concept development applications

- (1) For the purposes of this Act, a concept development application is a development application that sets out concept proposals for the development of a site, and for which detailed proposals for the site or for separate parts of the site are to be the subject of a subsequent development application or applications.*
- (2) In the case of a staged development, the application may set out detailed proposals for the first stage of development.*
- (3) A development application is not to be treated as a concept development application unless the applicant requests it to be treated as a concept development application.*
- (4) If consent is granted on the determination of a concept development application, the consent does not authorise the carrying out of development on any part of the site concerned unless:*
 - (a) consent is subsequently granted to carry out development on that part of the site following a further development application in respect of that part of the site, or*
 - (b) the concept development application also provided the requisite details of the development on that part of the site and consent is granted for that first stage of development without the need for further consent.*

The terms of a consent granted on the determination of a concept development application are to reflect the operation of this subsection.

- (5) The consent authority, when considering under section 79C the likely impact of the development the subject of a concept development application, need only consider the likely impact of the concept proposals (and any first stage of development included in the application) and does not need to consider the likely impact of the carrying out of development that may be the subject of subsequent development applications.*

With regard to the consistency of the proposal to Section 83B of the EPA Act 1979, the applicant has provided the following submission:

The Concept Development Application applies to the whole of the site and seeks to accommodate a new assisted living facility as the primary element of the development and linkage between the existing buildings through to the new accommodation facility as stage 2 along with repurposing works that reflect buildings no longer being utilised as assisted living accommodation.

The concept provides for development predominantly along the Tunstall Avenue frontage and reflects the capacity of the owners of the site to undertake development and reflects their projected needs. The concept as lodged identifies

two stages of development and seeks the authorisation of the carrying out of works for the identified stage 1 works.

The provisions of Section 83B were amended on 14 August 2017. The SEE was prepared 11 August 2017 and lodged with Council on 16 August 2017. The two stages proposed reflected the understanding of the operation of the then applicable provisions of Division 2A of the EP&A Act 1979.

With the amendments to Division 2A that now apply and to which the development is subject, we formally request that in accordance with the provisions of Clause 55 of the Environmental Planning and Assessment Regulation 200 (sic), the application be formally amended to comprise a Concept Development Application with one stage. Sufficient and appropriate details have been included with the application to allow for the assessment of the works for which authorisation of work to be carried out has been sought.

Council concurs with this view and considers that the current application and its staging satisfy the provisions of Section 83B of the EPA Act 1979.

Specific note is made to the applicant's formal request to alter the staging from a Concept Plan and two (2) stages to a Concept Plan and a single stage. This request does not alter the conclusions made in respect of the proposal and the assessment undertaken reflects the amended proposal.

Section 83C relates to concept development applications as an alternative to a DCP required by an environmental planning instrument. Section 83C states:

- (1) An environmental planning instrument cannot require the making of a concept development application before development is carried out.*
- (2) However, if an environmental planning instrument requires the preparation of a development control plan before any particular or kind of development is carried out on any land, that obligation may be satisfied by the making and approval of a concept development application in respect of that land.*

Note. Section 74D (5) also authorises the making of a development application where the relevant planning authority refuses to make, or delays making, a development control plan.

- (3) Any such concept development application is to contain the information required to be included in the development control plan by the environmental planning instrument or the regulations.*

With regard to the application of Section 83B of the EPA Act 1979 to the proposal, the applicant has provided the following submission:

As noted, permissibility for the development is provided under the provisions of SEPP Housing for Seniors and People with a Disability 2004 (SEPP HSPD). While SEPP HSPD provides permissibility, the provisions of Randwick LEP 2012 also continue to apply where there is no inconsistency. Clause 6.12(2) of Randwick LEP 2012 requires that development on land with a site area of at least 10,000m² requires the preparation of a Development Control Plan (DCP).

To satisfy the requirement for the preparation of a DCP a Concept Development Application in accordance with Section 83B of the EP&A Act 1979 was submitted. Section 83C(2) of the EP&A Act 1979 identifies that the making and approval of a Concept Development Application can satisfy a requirement of an Environmental Planning Instrument (EPI) to prepare a DCP.

Council likewise concurs with this view and considers that the current application and its staging satisfy the provisions of Section 83C(2) of the EPA Act 1979. There are no stated provisions within Division 2A of the EPA Act 1979 that preclude the application of the Division on the basis that the SEPP HSPD prevails.

Schedule 4A identifies development where the Sydney Planning Panel is the consent authority. In this instance, the proposed development has a capital investment value (CIV) of in excess of \$20 million. Clause 3 in Schedule 4A provides that general development with a CIV of more than \$20 million is to be determined by the relevant Planning Panel or Joint Regional Planning Panel, pursuant to the provisions of Section 23G (4) of the EP&A Act 1979.

Accordingly, the proposal is submitted to the Panel for its determination of the DA.

9.0 Relevant Environmental Planning Instruments

The following statutory Environmental Planning Instruments apply in the assessment of the proposed development:

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy – Housing for Seniors or People with a Disability) 2004
- State Environmental Planning Policy (Building Sustainability Index BASIX) 2004
- Randwick Local Environmental Plan 2012

9.1 State Environmental Planning Policy (State and Regional Development) 2011

The provisions of SEPP (State and Regional Development) 2011 apply to the proposed development as its capital investment value is in excess of \$20 million. In accordance with the requirements of the SEPP and Schedule 4A of the Environmental Planning and Assessment Act 1979, the submitted proposal is classified as 'regional development' with the determining authority for the application being the Sydney Central Planning Panel.

9.2 State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004

In accordance with Clause 6(1), the SEPP applies to BASIX affected development as defined by the EP&A Regulation 2000. The proposed development is not defined as a BASIX affected development as it does not involve any dwellings capable of separate occupation. Accordingly, a BASIX certificate is not required.

9.3 State Environmental Planning Policy No. 55 – Remediation of Land

SEPP No. 55 aims to promote the remediation of contaminated land for the purposes of reducing the risk of harm to human health or any other aspect of the environment. Council's Environmental Health Officer has reviewed the development application and the site is suitable for its intended purpose subject to standard conditions of consent in the event of any discoveries.

9.4 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

SEPP No. 65 aims to promote quality design of residential apartment development across the State. Clause 4 of the SEPP states that the Policy applies as follows:

"4 Application of Policy

- (1) *This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:*
- (a) *the development consists of any of the following:*
 - (i) *the erection of a new building,*
 - (ii) *the substantial redevelopment or the substantial refurbishment of an existing building,*
 - (iii) *the conversion of an existing building, and*
 - (b) *the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and*
 - (c) *the building concerned contains at least 4 or more dwellings."*

The proposal is not for a residential flat building, nor is it for shop top housing. Likewise, the proposal is not for a mixed use development as the proposed aged care facility operates independently of any other activity on the Site. Importantly the development does not contain any self-contained dwellings as referred to in item 4(1) (c). The nursing bed rooms are not capable of occupation as a self-contained dwelling, and therefore are not defined as dwellings.

The proposal is deemed to be for a residential care facility, which is defined in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 as:

"residential accommodation for seniors or people with a disability that includes:

- (a) *meals and cleaning services, and*
- (b) *personal care or nursing care, or both, and*
- (c) *appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, not being a dwelling, hostel, hospital or psychiatric facility."*

The existing residential care facility provides high-dependency care for elderly people and neither it nor the proposed facility will operate as a residential flat building, shop-top housing, hostel, hospital or psychiatric facility and will not contain any dwellings.

9.5 State Environmental Planning Policy – Housing for Seniors or People with a Disability) 2004

State Environmental Planning Policy – Housing for Seniors or People with a Disability (2004) or the SEPP (HSPD) aims to encourage the provision of purpose-built housing for seniors and people with a disability, including residential care facilities. The aims of the policy are met by the following:

- 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;
- Setting out design principles to achieve built form that responds to the characteristics of its site and form, and
- Ensuring that new developments are provided with suitable support services.

Clause 4 of SEPP (HSPD) states that the SEPP applies to land that is zoned *primarily for urban purposes*, or land that adjoins land zoned primarily for urban purposes, but subject to certain conditions.

Subclauses 4(1) and (5) of SEPP (HSPD) state the following:

- "(1) This Policy applies to land within New South Wales that is land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, but only if:*
- (a) *development for the purpose of any of the following is permitted on the land:*

- (i) dwelling-houses,
- (ii) residential flat buildings,
- (iii) hospitals,
- (iv) development of a kind identified in respect of land zoned as special uses, including (but not limited to) churches, convents, educational establishments, schools and seminaries, or
- (b) the land is being used for the purposes of an existing registered club.

(5) Application of Policy to land zoned for special uses and existing registered clubs

For the purposes of this Policy (and for the avoidance of doubt), a consent authority must not treat:

- (a) land on which development for the purposes of special uses is permitted, or
- (b) land that is being used for the purposes of an existing registered club, as being land zoned primarily for urban purposes unless it is satisfied that most of the land that it adjoins is land zoned for urban purposes."

The site is zoned part SP2 Educational Establishment and part SP2 Place of Public Worship under RLEP 2012. The Land Use Table in the RLEP 2012 does not identify seniors housing as permissible development and accordingly, it is deemed to be prohibited development. The site is located within a highly urbanised environment, surrounded by residential development to the north and a combination of residential, educational, and religious land uses to the south and east. To the immediate west of the site is a combination of residential and open space. The Kensington business area is located some 300m to the east on Anzac Parade.

Council is satisfied that the Site is located in an area that is zoned primarily for urban purposes. This Department of Planning and Environment also held this view, issuing a Site Compatibility Certificate on 24 February 2017. Accordingly, Council and the Panel may continue to assess the application against the provisions of the SEPP (HSPD).

The proposal's compliance against the relevant provisions of the SEPP (HSPD) is summarised in the table below

Clause	Requirement	Comment	Compliance
10	Seniors housing		
	Defines Seniors housing	The proposal is for a <i>residential care facility</i> , providing 51 aged care bedrooms repurposing of the existing aged care facility, communal kitchen which will service the new aged care facility, convent and communal living accommodation.	Complies
11	Residential care facilities		
	Defines Residential care facilities	The proposed development provides fully equipped and staffed residential accommodation for persons of an infirm nature and includes the provision of communal meals, cleaning and personal and nursing care as required.	Complies.
15	Application of Chapter 3 despite any other Instrument		
	Permits certain seniors housing on	A residential care facility is permitted on the Site as it adjoins land that is	Complies

Clause	Requirement	Comment	Compliance
	land that adjoins land zoned primarily for urban purposes	primarily for urban purposes. The Site is located within Kensington, a highly urbanised environment with residential development to the north, and a combination of residential/ educational/ religious land uses to the south and east. To the west of the site is a combination of residential and open space areas. The Kensington town centre on Anzac Parade is located some 300m to the east. A Site Compatibility Certificate has also been issued by the Department of Planning and Environment.	
16	Development consent required		
	Consent required by the Sydney Planning Panel	Noted. The application seeks the requisite consent.	N/A
17	Development on land adjoining land zoned primarily for urban purposes		
	Approval cannot be issued for development on land adjoining land zoned primarily for urban purposes unless it is for a hostel, residential care facility or serviced self-care housing.	The proposal is for the construction of a new residential care facility to replace an existing residential care facility.	Complies.
18	Restrictions on occupation of seniors housing		
	Permitted development must be occupied by seniors or people with a disability, their carers who live in the same household or staff employed to assist seniors or people with a disability. Conditions to be imposed on any consent to this effect.	The proposal will replace the existing facility and has been staged to allow residents and staff to transition into the new facility. All residents satisfy the criteria relating to seniors or people with a disability.	Complies.
24	Site Compatibility Certificates		
	This clause sets out the circumstances and provisions relating to Site Compatibility Certificates.	A Site Compatibility Certificate was issued by the Deputy Secretary Planning Services of the Department of Planning and Environment on 24 February 2017 and remains valid. The Deputy Secretary Planning Services has	Complies.

Clause	Requirement	Comment	Compliance
		also certified that the subject site satisfies the provisions of Clause 24(2)(a-b).	
26	Location and access to facilities		
	This Clause outlines the requirements for mandatory access to medical facilities (a G.P.), community services and recreational facilities, shops, banking services and other retail and commercial services, including gradients and distances along pathways and to public transport services.	<p>Regular public transport services are available from Kensington Road and Todman Avenue seven (7) days a week. Further services are available from Anzac parade, which will include Sydney light rail when it becomes operational in 2019. The applicant has not specifically identified how these services satisfy the requirements of Clause 26.</p> <p>Notwithstanding this, the applicant submits that the SEPP HSPD does not provide any relevant provisions for aged care facilities that provide high care levels for a highly-dependant population. In this instance, the proposed residential care facility will cater for a population where some 90% of the residents will require high support care as they are infirm and are unable to leave the facility without assistance. Residents will be provided with all domestic and medical care including all meals, cleaning, primary health care and rehabilitation.</p> <p>A minibus providing access to the nearby Kensington town centre and other facilities is also provided on-site to supplement the on-site care services and will cater for those residents who do not need such a high level of care and have some degree of mobility.</p> <p>Notwithstanding this, the applicant submits that the strict application of Clause 26 of SEPP HSPD should not occur. This is based on the basis that the accommodation already exists on site and is simply being relocated to an improved and upgraded facility; and that the nature and level of dependency of the residents is such that the majority do not leave the facility. Those that are able to leave are provided transport by light passenger vehicles as has been the practice for several years and which will continue.</p>	<p>Strict numerical compliance has not been achieved however sufficient planning merit exists, with the proposal providing adequate access to essential facilities and services.</p> <p>The applicant has submitted a Clause 4.6 submission, seeking variation of the provisions of this clause. A separate assessment is provided in Section 5 of this report.</p>
28	Water and sewer		
	Adequate water and sewer facilities must be provided	The Site is currently connected to a potable water supply and sewer services. Adequate conditions can be	Complies.

Clause	Requirement	Comment	Compliance
		imposed requiring the provision and amplification of such services to the proposed facility to the satisfaction of Sydney Water.	
30	Site analysis		
	Consent is not to be granted unless a Site Analysis has been prepared by and taken into account by the applicant.	A Site Analysis has been undertaken and taken into account in the design and assessment of the proposal. Other supporting documents such as the Traffic Impact Assessment, Statement of Heritage Impact and Landscape Plan have helped inform this assessment.	Complies.
33	Neighbourhood amenity and streetscape		
	This clause identifies those matters which determine an appropriate level of neighbourhood amenity and streetscape.	<p>The proposed development has been designed to complement and harmonise with the existing buildings of the wider site, which include heritage items. The proposal forms part of a larger development of the campus and its facilities.</p> <p>Frontage is provided to Tunstall Avenue, and fronts The Australian Golf Club, and will not result in any overshadowing or amenity impact on the residential dwellings of Tunstall Avenue. Landscaping is included, and will complement the existing landscaping on the wider site. Additional street trees are also proposed to Tunstall Avenue.</p>	Complies.
34	Visual and acoustic privacy		
	This clause addresses the standards deemed acceptable to ensure visual and acoustic privacy to neighbours through site planning and location of high use areas.	<p>The locations of rooms have been designed and located to avoid overlooking, privacy conflicts, and adverse noise impact from surrounding areas and communal facilities within.</p> <p>The site is located opposite a golf course, existing religious and educational facilities and will not adjoin any neighbouring dwellings, maintaining an appropriate level of amenity.</p>	Complies
35	Solar access and design for climate		
	This clause addresses the standards deemed acceptable to ensure adequate solar access to neighbouring properties.	The proposed development has been designed to provide solar access to individual rooms, communal living and activity spaces, and the central courtyard garden of the facility. The location of the development on the Site and distance from adjoining residential dwellings means that adjoining properties will not be adversely affected	Complies

Clause	Requirement	Comment	Compliance
		in terms of solar access.	
36	Stormwater		
	This clause requires adequate management of stormwater by minimising runoff and use of stormwater management devices, such as on-site detention.	A stormwater scheme including a stormwater detention scheme with a 70,700L detention tank below the car park driveway has been submitted with the application. The scheme has been reviewed by Council's Development Engineer and no objections raised. Adequate conditions are included in the Recommendation.	Complies
37	Crime prevention		
	This clause encourages measures such as site planning, use of shared entries and sight lines as part of the measures intended to provide personal property security for residents and visitors.	The proposed development has independent access from Tunstall Avenue and the existing forecourt to the heart of the wider convent site, accessed from Kensington Road. The entrances are overlooked by either the rooms and communal spaces of the aged care facility, or convent itself. Secure access arrangements are proposed by the applicant, which will provide secure areas for residents. The aged care facility will also be staffed 24 hours a day.	Complies
38	Accessibility		
	This clause identifies the pedestrian and vehicular access facilities to be provided for the proposed development, as well as car parking required to service the Site.	Safe pedestrian access is provided through the wider site to Kensington Road, where bus stops are located, enabling access to local facilities and Sydney CBD and the wider metropolitan area. Adequate car parking for staff and visitors is located off Tunstall Avenue, adjacent to the principle Site access. The aged care facility provides residential care for residents who are unable to care for themselves, in a high care environment with limited ability. Accordingly, parking for the residents is neither required or practical.	Noted
39	Waste management		
	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	The existing waste management facilities serving the convent and existing aged care facility will be utilised and adapted to serve the proposed development.	Complies
40	Development standards – minimum sizes and building height		
	The Consent Authority must not	The area of the wider Site exceeds 1000m ² and the frontage to either	Complies

Clause	Requirement	Comment	Compliance
	grant consent unless the following standards have been met: <ul style="list-style-type: none"> • Minimum site size of 1000m² • Minimum Site frontage of 20m at the building line • No height control as the Site is not a residential zone 	<p>Tunstall Avenue or Kensington Road exceeds 20m at the building line. Lot 1 in DP 562126, on which the proposed facility will site, has a site area of 13,070m².</p> <p>The wider site of the Daughters of our Lady of the Sacred Heart is comprised of seven separate allotments of land. Both the proposed and existing facilities will sit on separate parcels of land. Accordingly, it is proposed, for both practical and statutory reasons, to impose a condition in the consent to require all of the allotments to be amalgamated. This will promote a more holistic approach to the Site and follow best practice to prevent buildings straddling allotment boundaries.</p>	
44	Availability of Services		
	A consent authority must be satisfied that any facility or service provided as part of a proposed development to be carried out on land that adjoins land zoned primarily for urban purposes will be available to residents when the housing is ready for occupation.	The staging of works will allow the construction of the new development, transfer of residents and refurbishing of the existing building in a manner that will ensure all residents are provided with the necessary services.	Complies
48	Standards that cannot be used to refuse development consent for residential care facilities		
	<p>A consent authority must not refuse consent to a residential care facility on the grounds of:</p> <ul style="list-style-type: none"> • building height - if all proposed buildings are 8m • density and scale if the FSR is 1:1 or less • landscaped area if at least 25m²/ per bed is provided • Resident/ Visitor 	<p>It is noted that these standards establish a baseline that if complied with, cannot be used as grounds for refusal. Non-compliance with these standards does not necessarily mean a development must be refused.</p> <p>In this instance, the proposal responds as follows:</p> <ul style="list-style-type: none"> • Maximum building height of 18.8m • No FSR standard applicable to the Site. • 1275m² of landscaping required. In excess of this figure provided on the Site. • 5 parking spaces required for 51 	Satisfactory

Clause	Requirement	Comment	Compliance
	parking provided at a rate of 1 space/ 10 beds or 1 space/ 15 beds if only dementia care is provided. <ul style="list-style-type: none"> Employee parking at a rate of 1 space/ 2 employees on duty at any one time, and 1 ambulance parking space 	beds. 12 spaces, including 5 visitor spaces provided on the Site. <ul style="list-style-type: none"> No additional staff parking provided as no new staff required. Ambulance bay provided with direct access from Tunstall Avenue. 	
55	Residential care facilities for seniors required to have fire sprinkler systems		
	Consent cannot be granted unless a fire sprinkler system is provided in the residential care facility.	The BCA Assessment Report prepared by Blackett Maguire Goldsmith notes that a sprinkler system is required with details to be provided with an application for a Construction Certificate. Appropriate conditions have been included in the Recommendation to ensure a sprinkler system is installed.	Complies.

9.6 Randwick Local Environmental Plan 2012:

As shown in Figure 6 below, the site is zoned part SP2 Educational Establishment and part SP2 Place of Public Worship. The RLEP 2012 does not permit Seniors Housing on the Site and accordingly relies on the Site Compatibility Certificate being issued by the Department of Planning and Environment on 24 February 2017, pursuant to Clause 25(4)(a) of the SEPP (HSPD) for permissibility.

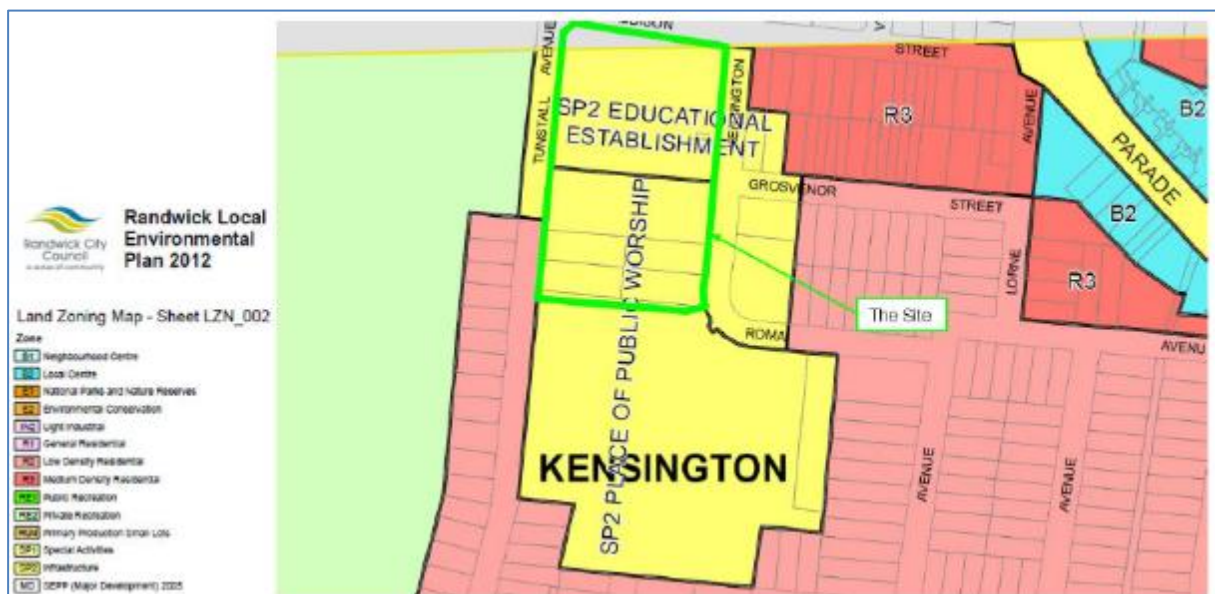



Figure 6: Zoning

Although the Zoning Table to the RLEP does not permit the development, the proposal is not necessarily in conflict with the zone objectives. The applicant states that the proposal is not in conflict with the zone objectives, as demonstrated in the excerpt from the Applicant's Statement of Environmental Effects below:

Zone objective	Comment
<i>To provide for infrastructure and related uses.</i>	<p>The proposal provides for seniors housing as a form of residential accommodation. The proposal will meet an increasing demand for purpose built adaptable housing, and a high care facility that will meet the needs of an aging population.</p> <p>The proposal is consistent with the identified use shown on the land zoning map.</p>
<i>To prevent development that is not compatible with or that may detract from the provision of infrastructure.</i>	The proposal is consistent with the identified purpose of the site.
<i>To facilitate development that will not adversely affect the amenity of nearby and adjoining development.</i>	<p>The proposed development, with respect to use and built form, is considered to respond to the surrounding development and wider locality.</p> <p>The proposal will not generate an unacceptable adverse impact particularly in relation to residential amenity.</p>
<i>To protect and provide for land used for community purposes.</i>	<p>The site is privately owned and intended to be developed for private purposes although assisted living opportunities for seniors is of great benefit to the broader community.</p> <p>In addition to its primary function, the development will also offer services to the community, including day care, overnight respite and support programs.</p>

Table 5: Consideration of SP2 zone objectives

The remaining applicable controls in the RLEP 2012 are addressed in the following table:

Clause	Comment	Complies
4.6		
5.10 Heritage Conservation	<p>The Site contains four separate Items of Environmental Heritage as well as the Sacred Heart Conservation Area, as shown in the excerpt of the RLEP 2012 below:</p>  <p>The proposal is supported by a Heritage Impact Statement (HIS) and a Heritage Assessment and Conservation Development Analysis, prepared by John</p>	Yes

Clause	Comment	Complies
	<p>Oultram and Associates. The application has been assessed by Council's Heritage Planner and no objections have been raised (refer to Section 5.2s of this report above).</p> <p>The proposal is considered to have a satisfactory level of impact upon the nearby heritage items and heritage value of the Sacred Heart Conservation Area.</p>	
6.2 Earthworks	Relatively minor earthworks are required to facilitate the proposal. Having regard to the matters listed in Cl. 6.2(3), the proposal is considered satisfactory. Relevant matters such as the discovery of relics, the importation of fill, and water quality management can be adequately dealt with through the imposition of Council's standard conditions of consent.	Yes
6.4 Stormwater Management	Refer to comments from Council's Development Engineer in Section 5.1 of this report above.	Yes
6.8 Airspace Operations	Refer to comments from Sydney Airport Corporation in Section 5.3	Yes
6.10 Essential Services	The Site is currently connected to all essential services. Suitable conditions are included in the Recommendations to ensure the proposed development will satisfy the requirements of the relevant authorities.	Yes
6.11 Design Excellence	Refer to comments from the Design Review Panel in Section 5.4 above and the applicant's response.	Yes
6.12 Development Requiring the Preparation of a DCP	<p>This clause is triggered as the Site Area exceeds 10,000m².</p> <p>Subclause (3) prevents a consent authority from granting consent unless:</p> <ul style="list-style-type: none"> • a DCP that provides for the matters specified in subclause (4) has been prepared for the land, or • guidelines and controls similar to those mentioned in subclause (4) already apply to the land, or • the development is of a minor nature and is consistent with the objectives of the zone in which the land is situated. <p>The subject DA is made under Section 83B of the EP&A Act 1979, which allows for staged development applications. Section 83C (2) then identifies that where an EPI requires the preparation of a DCP, that obligation may be satisfied by a staged DA. The applicant is therefore relying on the determination of a Concept Plan approved for the site, and a single detailed DA for all works, as opposed to a site-specific DCP.</p> <p>The matters for assessment under Clause 6.12(4) are addressed in the Table below:</p>	Yes

RLEP 2012 Clause 6.12(4) Matters:

Matter for Consideration	Comment	Complies
(a) design principles drawn from an analysis of the site and its context	Site analysis has been undertaken to inform the architectural design process.	Yes
(b) phasing of development and how it will provide	The phasing of the development will allow for the construction of the new	Yes

Matter for Consideration	Comment	Complies
for the social and recreational needs of a new community	aged care facility in the first phase and the relocation of the existing residents to this facility before the conversion and refurbishment of the existing facility to accommodation associated with the convent as the second phase.	
(c) distribution of land uses, including open space (its function and landscaping) and environment protection areas	The siting of the proposed building is on an existing disused concrete basketball court between two existing buildings. Replacement landscaping will be provided to supplement existing plantings on the site.	Yes
(d) subdivision pattern and provision of services	No subdivision proposed however the Site contains a number of allotments and it is intended to require consolidation by way of condition. Site is currently connected to all utility services with conditions to be imposed to maintain and augment where necessary, subject to the requirements of the service provider.	Yes
(e) building envelopes and built form controls	None applicable however the issues of height, bulk, scale have been satisfactorily addressed.	Yes
(f) housing mixes and tenure choices, including affordable and adaptable housing	The proposal will result in additional aged care beds to supplement the existing facility.	Yes
(g) heritage conservation, including both Aboriginal and European heritage	Refer to the submitted HIS and comments from Council's Heritage Planner.	Yes
(h) encouraging sustainable transport, including increased use of public transport, walking and cycling, road access and the circulation network and car parking provision, including integrated options to reduce car use	The proposed development is easily accessible by public transport. Bus stops are available in Kensington Road with connectivity to the imminent light rail through Kensington along Anzac Parade (less than 400m). Limited, but adequate car parking provision is provided.	Yes
(i) impact on, and improvements to, the public domain	Some impact on the public domain <i>vis</i> the works to the wall along Tunstall Avenue. Refer to comments from Council's Heritage Planner. Overall, the building will fit within the surrounding context and be viewed as a continuation of the existing built form.	Yes
(j) identification and conservation of native flora and fauna habitat and habitat corridors on the site, including any threatened species, populations or ecological communities	The Site has not been identified as containing any particularly sensitive or critical habitat and is not located within designated habitat/ ecologically sensitive corridors.	N/A

Matter for Consideration	Comment	Complies
(k) the application of the principles of ecologically sustainable development	ESD principles have been embodied in the design as far as practical, given the nature of the proposal and need to satisfy high fire control (BCA) and patient comfort demands. The refurbishment and repurposing of the existing facility as the second phase of the works promotes the adaptive reuse of an existing building to prevent its demolition.	Yes
(l) identification, extent and management of watercourses, wetlands and riparian lands and any buffer areas	The Site does not contain any such features	N/A
(m) environmental constraints, including climate change, acid sulfate soils, flooding, contamination and remediation	The Site is not subject to any known environmental site constraints	N/A
(n) opportunities to apply integrated natural water-cycle design and integrated renewable energy design	The design has incorporated environmentally sustainable technologies where possible.	Yes

10.0 Draft Environmental Planning Instruments

There are no draft environmental planning instruments applying to the Site.

11.0 Policy Controls

The following policy controls apply in the assessment of the proposed development and are elaborated upon in the section below:

11.1 Randwick Comprehensive Development Control Plan 2013

This DCP provides detailed guidance for development applications (DAs) to supplement the provisions of the Randwick Comprehensive Local Environmental Plan (RLEP). The DCP includes objectives and controls for ensuring well designed, quality land use and development within the Local Government Area (LGA) to enhance Randwick City as a vibrant community and desirable place to live, work and visit.

While there are no specific provisions relative to the proposal within the RDCP 2013, it does contain a range of general controls, including:

- Design
- Heritage
- Landscaping, tree preservation and vegetation management
- Transport, vehicular access and parking

These matters have been addressed in the assessment above and no further issues are raised.

11.2 Randwick City Council Section 94A Development Contributions Plan.

A suitable condition is included requiring the payment of a S94A contribution in accordance with the requirements of Council's plan.

12.0 Environmental Assessment

Section 79C 'Matters for Consideration'	Comments
Section 79C(1)(a)(i) – Provisions of any environmental planning instrument	Refer to the "Environmental Planning Instruments" section of this report for details.
Section 79C(1)(a)(ii) – Provisions of any draft environmental planning instrument	N/A.
Section 79C(1)(a)(iii) – Provisions of any development control plan	Refer to the "Policy Control" section of this report above for details.
Section 79C(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	N/A
Section 79C(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Environmental Planning and Assessment Regulation 2000 have been addressed by the recommended conditions.
Section 79C(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in the body of this report.</p> <p>In terms of social and economic impacts, the proposal will increase the availability of aged care beds within the locality and LGA as a whole, allowing more people to age in place in Kensington.</p>
Section 79C(1)(c) – The suitability of the site for the development	The subject site is located within an established suburban area and has convenient access to the local and regional road network, public transport, social infrastructure and services. The site has an appropriate size and configuration and is considered to be suitable for the proposed development.
Section 79C(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	No submissions were received.
Section 79C(1)(e) – The public interest	The proposal will not result in any unreasonable or unacceptable ecological, social or economic impacts on the locality. Therefore, the development is considered to be in the public interest.

13.0 Relationship to City Plan

The relationship with the City Plan is as follows:

Outcome 4: Excellence in urban design.
Direction 4a: Improved design and sustainability across all development.

14.0 Conclusion

The clause 4.6 exception lodged with respect to the non-compliance with the relevant standard under Clause 26 of the SEPP (HSPD) is considered to be well founded in the circumstances.

The proposal is appropriate on the site given the existing and desired future character of the area, and satisfies the objectives contained within SEPP (HSPD), RLEP 2012 and the relevant requirements of RDCP 2013. The development proposes a built form and spatial relationship with the public domain that will become an acceptable addition to the urban fabric.

The proposal will not have a significant impact on surrounding properties and the non-compliances with statutory and policy controls will not exacerbate impacts in an unacceptable manner. The application is therefore recommended for approval subject to conditions.

DEVELOPMENT CONSENT CONDITIONS

GENERAL CONDITIONS

The development must be carried out in accordance with the following conditions of consent.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of environmental amenity.

Approved Plans & Supporting Documentation

1. The development must be implemented substantially in accordance with the plans and supporting documentation listed below and endorsed with Council's approved stamp, except where amended by Council in red and/or by other conditions of this consent:

Drawing No. (Revision) Drawing Title	Drawn/prepared by	Dated
DA 2.07 (R1) Building Offsets	Baldasso Cortese	21.07.2017
DA 3.01 (R6) Site Masterplan Staging	Baldasso Cortese	07.08.2017
DA 3.02 (R1) Site Section	Baldasso Cortese	21.07.2017
DA 3.03.01 (R2) Level 1 Floor Plan	Baldasso Cortese	04.08.2017
DA 3.03.02 (R2) Level 1 Floor Plan	Baldasso Cortese	04.08.2017
DA 3.04.01 (R2) Level 2 Floor Plan	Baldasso Cortese	04.08.2017
DA 3.04.02 (R2) Level 2 Floor Plan	Baldasso Cortese	04.08.2017
DA 3.05.01 (R2) Level 3 Floor Plan	Baldasso Cortese	04.08.2017
DA 3.05.02 (R2) Level 3 Floor Plan	Baldasso Cortese	04.08.2017
DA 3.06.01 (R2) Level 4 Floor Plan	Baldasso Cortese	04.08.2017
DA 3.06.02 (R1) Level 4 Floor Plan	Baldasso Cortese	21.07.2017
DA 3.07.01 (R1) Roof Plan	Baldasso Cortese	21.07.2017
DA 3.07.02 (R1) Roof Plan	Baldasso Cortese	21.07.2017
DA 3.08 (R2) Tunstall Ave Elevation – Proposed Design	Baldasso Cortese	23.07.2017
DA 3.09 (R2) West Elevations	Baldasso Cortese	07.08.2017
DA 3.10 (R2) North, East and South Elevations	Baldasso Cortese	07.08.2017
DA 3.11 (R1) Building Sections A-A and B-B	Baldasso Cortese	21.07.2017

DA 3.12 (R2) Building Sections C-C and D-D	Baldasso Cortese	07.08.2017
DA 3.13 (R2) Demolition Plan-Site	Baldasso Cortese	04.08.2017
DA 3.14 (R2) Level 2 Demolition Plan	Baldasso Cortese	04.08.2017
DA 3.15 (R2) Level 3 Demolition Plan	Baldasso Cortese	04.08.2017
DA 3.16 (R1) Level 4 Demolition Plan	Baldasso Cortese	21.07.2017
DA 4.01 (R1) Elevation Convent Bridge Link	Baldasso Cortese	21.07.2017
DA 4.02 (R1) Elevation Convent Bridge Link	Baldasso Cortese	21.07.2017

Heritage Conservation

2. The extent of new openings in the Tunstall Avenue boundary wall should be limited to only the minimum required, and if feasible, should be located between the pier bays. Amended drawings are to be submitted to and approved by Council's Director City Planning, in accordance with Section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.

Historical Archaeological Remains or Deposits

3. In the unlikely event that historical archaeological remains or deposits are exposed during the works, all work should cease while an evaluation of their potential extent and significance is undertaken and the NSW Heritage Office notified under the requirements of the Heritage Act.

Colours and materials

4. The colours, materials and finishes of the external surfaces to the building are to be compatible with the adjacent development to maintain the integrity and amenity of the building and the streetscape.

Details of the proposed colours, materials and textures (i.e. a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Director of City Planning, in accordance with section 80A (2) of the *Environmental Planning & Assessment Act 1979* prior to a construction certificate being issued for the relevant building works.

5. The proposed development must be carried out in accordance with the approval issued by the Sydney Airport Corporation Limited on 24 November 2017.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

The following conditions of consent must be complied with before a 'Construction Certificate' is issued by either an Accredited Certifier or Randwick City Council. All necessary information to demonstrate compliance with the following conditions of consent must be included in the documentation for the construction certificate.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent conditions and to achieve reasonable levels of environmental amenity.

Consent Requirements

6. The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation.

Section 94A Development Contributions

7. In accordance with Council's Section 94A Development Contributions Plan effective from 21 April 2015, based on the development cost of \$24,273,554 the following applicable monetary levy must be paid to Council: \$242,735.55.

The levy must be paid in **cash, bank cheque** or by **credit card** prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone 9399 0999 or 1300 722 542 for the indexed contribution amount prior to payment.

To calculate the indexed levy, the following formula must be used:

$$\text{IDC} = \text{ODC} \times \text{CP2/CP1}$$

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment

CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.

Council's Section 94A Development Contribution Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.

Compliance Fee

8. A development compliance and enforcement fee of \$5,000.00 shall be paid to Council in accordance with Council's adopted Fees & Charges Pricing Policy, prior to the issue of a Construction Certificate for development.

Long Service Levy Payments

9. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, must be forwarded to the Long Service Levy Corporation or the Council, in accordance with Section 109F of the *Environmental Planning & Assessment Act 1979*.

At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works.

Security Deposit

10. The following damage / civil works security deposit requirement must be complied with, as security for making good any damage caused to the roadway, footway, verge or any public place; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 80A(6) of the *Environmental Planning and Assessment Act 1979*:

- \$5000.00 - Damage / Civil Works Security Deposit

The damage/civil works security deposit may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the completion of the civil works which confirms that there has been no damage to Council's infrastructure.

The owner/builder is also requested to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.

To obtain a refund of relevant deposits, a *Security Deposit Refund Form* is to be forwarded to Council's Director of City Services upon issuing of an occupation certificate or completion of the civil works.

Electricity Substation

11. The applicant must liaise with Ausgrid prior to obtaining a construction certificate (for any above ground works), to determine whether or not an electricity substation is required for the development. Any electricity substation required for the site as a consequence of this development shall be located within the site and shall be screened from view. The proposed location and elevation shall be shown on relevant construction certificate and landscape plans.

Sydney Water Requirements

12. All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.

The approved plans must be submitted to the Sydney Water **Tap in™** online service, to determine whether the development will affect Sydney Water's waste water and water mains, stormwater drains and/or easements, and if any further requirements need to be met.

*The Sydney Water **Tap in™** online service replaces the Quick Check Agents as of 30 November 2015*

The **Tap in™** service provides 24/7 access to a range of services, including:

- Building plan approvals
- Connection and disconnection approvals
- Diagrams
- Trade waste approvals
- Pressure information
- Water meter installations
- Pressure boosting and pump approvals
- Change to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's **Tap in™** online service is available at:
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

The Principal Certifying Authority must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.

Street Tree Protection Measures

13. In order to ensure retention of the two *Ulmus parvifolia* (Chinese Weeping Elms, T28 & T30, as listed in the Arboricultural Impact Assessment by Arterra, ref AIA-01, rev B, dated 20.07/17, 'the Arborists Report') on the Tunstall Avenue verge, being one each to both the north and south of the new vehicle crossing that will be constructed towards the northern boundary in good health, the following measures are to be undertaken:

- a. All documentation submitted for the Construction Certificate application must show their retention, with the position and diameter of their trunks, canopies as well as their tree identification numbers to be clearly and accurately shown on all plans in relation to the proposed works.
- b. Prior to the commencement of any site works, the Certifying Authority/PCA must ensure that an AQF Level 5 Consulting Arborist (who is eligible for membership with a nationally recognized organization/association) has been engaged as '*the Project Arborist*' for the duration of works, and will be responsible for both implementing and monitoring the conditions of development consent, any approved Tree Protection Plan and Specification, as well as any other instructions issued on-site.
- c. A site specific Tree Protection Plan must be prepared by the Project Arborist in relation to these trees and the threats that are posed by this application, and is to expand further on the details that are already contained in Section 3, Recommendations of the Arboricultural Impact Assessment by Arterra, ref AIA-01, rev B, dated 20.07/17 ("*the Arborists Report*").
- d. The Project Arborist must be present on-site at the relevant stages of works, and must keep a log of the dates of attendance and the works performed, which is to be presented as a Final Compliance Report, for the approval of the PCA, prior to the issue of any Occupation Certificate.
- e. In the event of any discrepancy between the Arborists Report, Tree Protection Plan and conditions of consent, the Project Arborist must contact Council's Landscape Development Officer on 9093-6613 to reach agreement on the outcome before proceeding further.
- f. All Construction Certificate plans must show that both the location and width of the new vehicle crossing located towards the northern site boundary will be consistent with what is shown on the **Level 1 Floor Plan by Baldasso Cortese, dwg DA 3.03.01, rev R2, dated 04.08.17.**
- g. Any excavations associated with the installation of new services, pipes, stormwater systems or similar over public property in this area can only be located hard up against either side of the new crossing, **with the external PVC line that is currently shown on the Level 1 Stormwater Concept Plan by Abel & Brown Pty Ltd, dwg SW-2, rev C, dated July 2017, in the same area as T30, needing to be relocated so as to comply with this requirement, with an amended plan to be submitted to, and be approved by, the Certifying Authority/PCA.**
- h. Both trees are to be physically protected by the installation of 1.8 metre high steel mesh/chainwire fencing, which shall be located a minimum distance of **2 metres** on all four sides (measured off the outside edge of their trunks at ground level), in order to completely enclose them for the duration of works.
- i. This fencing shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed, to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION ZONE (TPZ), DO NOT REMOVE/ENTER".
- j. Within the TPZ's, there is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, with all Site Management Plans needing to

acknowledge these requirements.

- k. Any re-grading/battering of existing ground levels on the verge associated with construction of the new vehicle crossing, within either of their 2 metre TPZ's, must result in smooth, even transitions between the finished levels.
- l. Other than the approved works, the applicant is not authorised to perform any other works to these public trees, and must contact Council's Landscape Development Officer on 9093-6613 should pruning or similar works appear necessary. If approval is given, it can only be performed by Council, wholly at the applicants cost, with payment to be received prior to the issue of an Occupation Certificate.
- m. The PCA must ensure compliance with all of these requirements, both on the plans as well as on-site during the course of construction, and prior to issuing any type of Occupation Certificate.
- n. A refundable deposit in the form of cash, credit card or cheque for an amount of **\$1,000.00** must be paid at the Cashier on the Ground Floor of the Administrative Centre, **prior to a Construction Certificate being issued for the development**, in order to ensure compliance with the conditions listed in this consent, and ultimately, preservation of the trees.

The refundable deposit will be eligible for refund following the issue of an Occupation Certificate, subject to completion and submission of Council's 'Security Deposit Refund Application Form', and pending a satisfactory inspection by Council's Landscape Development Officer (9093-6613).

Any contravention of Council's conditions relating to the trees at any time during the course of the works, or prior to the issue of an Occupation Certificate, may result in Council claiming all or part of the lodged security in order to perform any rectification works necessary, as per the requirements of 80A (6) of the Environmental Planning and Assessment Act 1979.

Protection of trees within the site

- 14. In order to also ensure the retention of those trees located within the subject site, being the *Eucalyptus botryoides* (Bangalay, T07) and *Casuarina cristata* (Belah, T09) halfway along the western site boundary, then the other group to their east, just beyond the eastern extent of the works, being from east to west, a *Banksia integrifolia* (Coastal Banksia, T14), a large and mature, *Ficus microcarpa* var. 'Hillii' (Hills Weeping Fig, T01), an *Angophora floribunda* (Rough Barked Apple, T02), a *Flindersia australis* (Teak, T03), and two *Eucalyptus botryoides* (Bangalay, T04 & T05) in good health, the following measures are to be undertaken:
 - a. All documentation submitted for the Construction Certificate application must show their retention, with the position and diameter of their trunks, canopies as well as their tree identification numbers to be clearly and accurately shown on all plans in relation to the proposed works.
 - b. Prior to the commencement of any site works, the Certifying Authority/PCA must ensure that an AQF Level 5 Consulting Arborist (who is eligible for membership with a nationally recognized organization/association) has been engaged as 'the Project Arborist' for the duration of works, and will be responsible for both implementing and monitoring the conditions of development consent, any approved Tree Protection Plan and Specification, as well as any other instructions issued on-site.
 - c. A site specific Tree Protection Plan must be prepared by the Project Arborist in relation to these trees, and is to expand further on the details

that are already contained in Section 3, Recommendations of the Arboricultural Impact Assessment by Arterra, ref AIA-01, rev B, dated 20.07/17 (*"the Arborists Report"*).

- d. The Project Arborist must be present on-site at the relevant stages of works, and must keep a log of the dates of attendance and the works performed, which is to be presented as a Final Compliance Report, for the approval of the PCA, prior to the issue of any Occupation Certificate.
- e. In the event of any discrepancy between the Arborists Report, Tree Protection Plan and conditions of consent, the Project Arborist must contact Council's Landscape Development Officer on 9093-6613 to reach agreement on the outcome before proceeding further.
- f. All Construction Certificate plans must show that the following existing structures will be retained in-situ, as has been shown on the plans, and as is recommended in the Arborist Report:
 - i) The existing building/footings, the raised concrete hardstand and grass terrace to the east of T07 & T09, as well as the western boundary wall/fence to their west, and the existing stairway to their north;
 - ii) All existing surfacing, paving, pathways and retaining walls at the northeast corner of the site, adjacent the historic Convent building, in the area occupied by T01-05 & T14.
- g. All Construction Certificate plans must include details showing that the part of the new building which encroaches within the northeast corner of the TPZ of T07 will be suspended above existing ground levels, with only a supporting column to be constructed in this location, in accordance with the Project Arborists requirements.
- h. Excavations for the works associated with point 'g' above, can only be a system such as sheet piling, contiguous bored piers or similar that will not involve bulk earthworks, with details confirming compliance to be provided.
- i. All initial excavations associated with any new structures; or; for demolition, within the TPZ's of any of these trees must be directly supervised by the Project Arborist, with all site staff to comply with any instructions issued.
- j. Where roots are encountered which are in direct conflict with the approved works, they may be cut cleanly, only by hand (using only hand held tools, not machinery), and only by the Project Arborist, with the affected area/s to be backfilled with clean site soil as soon as practically possible.
- k. These trees are to be physically protected by the installation of 1.8 metre high steel mesh/chainwire fencing, which shall be located at the distances and to the extent that is shown on Appendix 4.1, Tree Protection Plan, dwg T-01, of the Arborist Report, so as to completely exclude them for the duration of works.
- l. This fencing shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed, to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION ZONE (TPZ), DO NOT REMOVE/ENTER".

- m. If additional trunk or branch protection is required, this can be provided by way of wrapping layers of geo-textile, underfelt or Hessian around affected areas, to which, lengths of evenly spaced hardwood timbers shall be placed around their circumference, and are then to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.
- n. In order to prevent soil/sediment being washed over their root systems, erosion control measures must also be provided at ground level around the perimeter of the TPZ's.
- o. Ground levels within the TPZ's must not be altered by more than 200mm, and other than the approved works, there must be no other structures such as continuous strip footings, planter boxes or similar to be located in these areas.
- p. If the Project Arborist deems that additional ground protection is warranted, this can be provided by way of strapped together rumble boards, plywood or a 50mm layer of woodchip mulch, and can extend beyond the perimeter of the TPZ's if needed.
- q. Any excavations associated with the installation of new services, pipes, stormwater systems or similar must be located wholly outside of their SRZ's (as per the distances that are listed in the Tree Impact Assessment Schedule), and if these works do need to encroach within any of their TPZ's, then the Project Arborist must directly supervise these components to ensure compliance with the Recommendations contained in Section 3.2 of the Arborist Report.
- r. Within their TPZ's, there is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, with all Site Management Plans needing to acknowledge these requirements.
- s. The PCA must ensure compliance with all of these requirements, both on the plans as well as on-site during the course of construction, and prior to issuing any type of Occupation Certificate.

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the construction certificate for the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Councils development consent conditions and to achieve reasonable levels of environmental amenity.

Traffic conditions

- 15. Adequate provisions are to be made to provide pedestrian visibility and safety. All new walls (and/or landscaping) adjacent to vehicular crossings should not exceed a height of 600mm above the internal driveway level for a distance of 1.5m within the site or new walls (including landscaping) should splayed 1.5 metres by 1.5 metres. Details of compliance, to the satisfaction of the certifying authority, are to be included in the construction certificate documentation.
- 16. The vehicular access driveways, internal circulation ramps and the carpark areas, (including, but not limited to, the ramp grades, carpark layout and height

clearances) are to be in accordance with the requirements of AS2890.1:2004. The Construction Certificate plans must demonstrate compliance with these requirements.

Design Alignment levels

17. The design alignment level (the finished level of concrete, paving or the like) at the property boundary for driveways, access ramps and pathways or the like, shall be:

Vehicle Access

- **Such that the vehicle crossing across Council's Tunstall Avenue verge does not exceed a maximum grade of 1 in 14 (7.14%).**

The design alignment levels at the property boundary as issued by Council must be indicated on the building plans for the construction certificate. The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.

Any enquiries regarding this matter should be directed to Council's Development Engineer on 9093-6881.

18. The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of \$1750 calculated at \$57.00 (inclusive of GST) per metre of development site frontage. This amount is to be paid prior to a construction certificate being issued for the development.
19. The gradient of the internal access driveway must be designed and constructed in accordance with AS 2890.1 (2004) – Off Street Car Parking and the levels of the driveway must match the alignment levels at the property boundary (as specified by Council). Details of compliance are to be included in the construction certificate.
20. **Stormwater Drainage & Flood Management**
Stormwater drainage plans have not been approved as part of this development consent.

Engineering calculations and plans with levels reduced to Australian Height Datum in relation to site drainage shall be prepared by a suitably qualified Hydraulic Engineer and submitted to and approved by the certifying authority prior to a construction certificate being issued for the development. A copy of the engineering calculations and plans are to be forwarded to Council, prior to a construction certificate being issued, if the Council is not the certifying authority. The drawings and details shall include the following information:

- a) A detailed drainage design supported by a catchment area plan, at a scale of 1:100 or as considered acceptable to the Council or an accredited certifier, and drainage calculations prepared in accordance with the Institution of Engineers publication, Australian Rainfall and Run-off, 1987 edition.
- b) A layout of the proposed drainage system including pipe sizes, type, grade, length, invert levels, etc., dimensions and types of all drainage pipes and the connection into Council's stormwater system.
- c) The separate catchment areas within the site, draining to each collection point or surface pit are to be classified into the following categories:
 - i. Roof areas
 - ii. Paved areas
 - iii. Grassed areas

iv. Garden areas

- d) Where buildings abut higher buildings and their roofs are "flushed in" to the higher wall, the area contributing must be taken as: the projected roof area of the lower building, plus one half of the area of the vertical wall abutting, for the purpose of determining the discharge from the lower roof.
- e) Proposed finished surface levels and grades of car parks, internal driveways and access aisles which are to be related to Council's design alignment levels.
- f) The details of any special features that will affect the drainage design eg. the nature of the soil in the site and/or the presence of rock etc.

21. The site stormwater drainage system is to be provided in accordance with the following requirements;

- a) The stormwater drainage system must be provided in accordance with the relevant requirements of Building Code of Australia and the conditions of this consent, to the satisfaction of the *Certifying Authority* and details are to be included in the construction certificate.
- b) The stormwater must be discharged (by gravity) either:
 - i. Directly to the kerb and gutter in front of the subject site in Tunstall Ave; or
 - ii. To a suitably designed infiltration system (subject to confirmation in a full geotechnical investigation that the ground conditions are suitable for the infiltration system),

NOTES:

- Infiltration will not be appropriate if the site is subject to rock and/or a water table within 2 metres of the base of the proposed infiltration area, or the ground conditions comprise low permeability soils such as clay.

- c) Should stormwater be discharged to Council's street drainage system, an on-site stormwater detention system must be provided to ensure that the maximum discharge from the site does not exceed that which would occur during a **10% AEP (1 in 10 year)** storm of one hour duration for existing site conditions. All other stormwater run-off from the site for all storms up to the 5% AEP (1 in 20 year) storm is to be retained on the site for gradual release to the street drainage system, to the satisfaction of the certifying authority.

An overland escape route or overflow system (to Council's street drainage system) must be provided for storms having an annual exceedance probability (AEP) of 1% (1 in 100 year storm), or, alternatively the stormwater detention system is to be provided to accommodate the 1% AEP (1 in 100 year) storm.

NOTE: The maximum discharge rate at a single kerb outlet is restricted to a maximum discharge of 25L/S for the 1 in 20yr storm. The flow will have to be split if this amount is exceeded or alternatively the detention system may be designed to restrict the outflow to 25L/S.

- d) Should stormwater be discharged to an infiltration system the following requirements must be met;

- i. Infiltration systems/Absorption Trenches must be designed and constructed generally in accordance with Randwick City Council's Private Stormwater Code.
- ii. The infiltration area shall be sized for all storm events up to the 5% AEP (1 in 20 year) storm event with provision for a formal overland flow path to Council's Street drainage system.

Should no formal overland escape route be provided for storms greater than the 5% AEP (1 in 20yr) design storm, the infiltration system shall be sized for the 1% AEP (1 in 100yr) storm event.
- iii. Infiltration areas must be a minimum of 3.0 metres from any structure (Note: this setback requirement may not be necessary if a structural engineer or other suitably qualified person certifies that the infiltration area will not adversely affect the structure)
- iv. Infiltration areas must be a minimum of 2.1 metres from any site boundary unless the boundary is common to Council land (eg. a road, laneway or reserve).

- e) Determination of the required cumulative storage (in the on-site detention and/or infiltration system) must be calculated by the mass curve technique as detailed in Technical Note 1, Chapter 14 of the Australian Rainfall and Run-off Volume 1, 1987 Edition.

Where possible any detention tanks should have an open base to infiltrate stormwater into the ground. Infiltration should not be used if ground water and/or any rock stratum is within 2.0 metres of the base of the tank.

- f) Should a pump system be required to drain any portion of the site the system must be designed with a minimum of two pumps being installed, connected in parallel (with each pump capable of discharging at the permissible discharge rate) and connected to a control board so that each pump will operate alternatively. The pump wet well shall be sized for the 1% AEP (1 in 100 year), 2 hour storm assuming both pumps are not working.

The pump system must also be designed and installed strictly in accordance with Randwick City Council's Private Stormwater Code.

- g) Generally all internal pipelines must be capable of discharging a 1 in 20 year storm flow. However the minimum pipe size for pipes that accept stormwater from a surface inlet pit must be 150mm diameter. The site must be graded to direct any surplus run-off (i.e. above the 1 in 20 year storm) to the proposed drainage (detention/infiltration) system.
- h) A sediment/silt arrestor pit must be provided within the site near the street boundary prior to discharge of the stormwater to Council's drainage system and prior to discharging the stormwater to any absorption/infiltration system.

Sediment/silt arrestor pits are to be constructed generally in accordance with the following requirements:

- The base of the pit being located a minimum 300mm under the invert level of the outlet pipe.
- The pit being constructed from cast in-situ concrete, precast concrete

or double brick.

- A minimum of 4 x 90 mm diameter weep holes (or equivalent) located in the walls of the pit at the floor level with a suitable geotextile material with a high filtration rating located over the weep holes.
- A galvanised heavy-duty screen being provided over the outlet pipe/s (Mascot GMS multipurpose filter screen or equivalent).
- The grate being a galvanised heavy-duty grate that has a provision for a child proof fastening system.
- A child proof and corrosion resistant fastening system being provided for the access grate (e.g. spring loaded j-bolts or similar).
- Provision of a sign adjacent to the pit stating, "This sediment/silt arrester pit shall be regularly inspected and cleaned".

Sketch details of a standard sediment/silt arrester pit may be obtained from Council's Drainage Engineer.

- i) The floor level of all habitable, retail, commercial and storage areas located adjacent to any detention and/or infiltration systems with above ground storage must be a minimum of 300mm above the maximum water level for the design storm or alternately a permanent 300mm high water proof barrier is to be provided.

(In this regard, it must be noted that this condition must not result in any increase in the heights or levels of the building. Any variations to the heights or levels of the building will require a new or amended development consent from the Council prior to a construction certificate being issued for the development).

- j) The maximum depth of ponding in any above ground detention areas and/or infiltration systems with above ground storage shall be as follows (as applicable):
- i. 150mm in uncovered open car parking areas (with an isolated maximum depth of 200mm permissible at the low point pit within the detention area)
 - ii. 300mm in landscaped areas (where child proof fencing is not provided around the outside of the detention area and sides slopes are steeper than 1 in 10)
 - iii. 600mm in landscaped areas where the side slopes of the detention area have a maximum grade of 1 in 10
 - iv. 1200mm in landscaped areas where a safety fence is provided around the outside of the detention area
 - v. Above ground stormwater detention areas must be suitably signposted where required, warning people of the maximum flood level.

Note: Above ground storage of stormwater is not permitted within basement car parks or store rooms.

- k) A childproof and corrosion resistant fastening system shall be installed on access grates over pits/trenches where water is permitted to be temporarily stored.
- l) A 'V' drain (or equally effective provisions) are to be provided to the perimeter of the property, where necessary, to direct all stormwater to the detention/infiltration area.

- m) Mulch or bark is not to be used in on-site detention areas.
- n) Site discharge pipelines shall cross the verge at an angle no less than 45 degrees to the kerb line and must not encroach across a neighbouring property's frontage unless approved in writing by Council's Development Engineering Coordinator.
- o) The site discharge line shall be relocated from its current location as shown on the Level 1 Stormwater Concept Plan by Abel & Brown Pty Ltd, dwg SW-2, rev C, dated July 2017, to be hard up against the northern edge of the new vehicle crossing, so as to provide suitable separation from the Council's street tree which is being retained in this area.
- p) Any onsite detention/infiltration systems shall be located in areas easily accessible.

Site seepage

22. The development must comply with the following requirements to ensure the adequate management of site seepage and sub-soil drainage:

- a) Seepage/ground water and subsoil drainage must not be collected & discharged directly or indirectly to Council's street gutter or underground drainage system
- b) Should dry weather seepage flows be evident during excavation, adequate provision is to be made for the ground/seepage water to drain around the basement carpark (to ensure the basement will not dam or slow the movement of the ground water through the development site).
- c) Should dry weather seepage flows be evident during excavation, the walls of the basement level/s of the building are to be waterproofed/tanked to restrict the entry of any seepage water and subsoil drainage into the basement level/s of the building and the stormwater drainage system for the development.
- d) Sub-soil drainage systems may discharge via infiltration subject to the hydraulic consultant/engineer being satisfied that the site and soil conditions are suitable and the seepage is able to be fully managed within the site, without causing a nuisance to any premises and ensuring that it does not drain or discharge (directly or indirectly) to the street gutter.
- e) Details of the proposed stormwater drainage system including methods of tanking the basement levels and any sub-soil drainage systems (as applicable) must be prepared or approved by a suitably qualified and experienced Professional Engineer to the satisfaction of the Certifying Authority and details are to be included in the construction certificate. **A copy of the proposed method for tanking the basement levels must be forwarded to Council if Council is not the Certifying Authority.**

Waste Management

23. A Waste Management Plan detailing the waste and recycling storage and removal strategy for all of the development, is required to be submitted to and approved by Council's Director of City Planning.
The Waste Management plan is required to be prepared in accordance with Council's Waste Management Guidelines for Proposed Development and must include the following details (as applicable):

- The use of the premises and the number and size of occupancies.

- The type and quantity of waste to be generated by the development.
 - Demolition and construction waste, including materials to be re-used or recycled.
 - Details of the proposed recycling and waste disposal contractors.
 - Waste storage facilities and equipment.
 - Access and traffic arrangements.
 - The procedures and arrangements for on-going waste management of the aged care facility including collection, storage and removal of waste and recycling of materials.
24. A garbage room shall be provided and sized to contain a total of 14 x 240 litre bins (comprising 7 garbage bins & 7 recycle bins) and with adequate provisions for access to all bins. Details showing compliance are to be included in the construction certificate.
25. Waste storage areas located internally within a basement are to be provided with a tap and hose and the floor is to be graded and drained to the sewer to the requirements of Sydney Water.

Landscape Plans

26. The Certifying Authority/PCA must ensure that the Landscape Plans submitted as part of the approved Construction Certificate are substantially consistent with the Landscape Plans by Arterra Design Pty Ltd, dwg's L-SD-01 – 03, rev C, dated 19.07.17.
27. **Compliance with the Building Code of Australia & Relevant Standards**
In accordance with section 80A (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
28. Access and facilities for people with disabilities must be provided in accordance with the relevant requirements of the Building Code of Australia, Disability (Access to Premises – Buildings) Standards 2010, relevant Australian Standards and conditions of consent, to the satisfaction of the Certifying Authority.

Site stability, Excavation and Construction work

29. A report must be obtained from a suitably qualified and experienced *professional engineer*, which includes the following details, to the satisfaction of the Certifying Authority for the development:-
- a) Geotechnical details which confirm the suitability and stability of the site for the development and relevant design and construction requirements to be implemented to ensure the stability and adequacy of the development and adjacent land.
 - b) Details of the proposed methods of excavation and support for the adjoining land (including any public place) and buildings.
 - c) Details to demonstrate that the proposed methods of excavation, support and construction are suitable for the site and should not result in any damage to the adjoining premises, buildings or any public place, as a result of the works and any associated vibration.
 - d) The adjoining land and buildings located upon the adjoining land must be adequately supported at all times throughout demolition, excavation and building work, to the satisfaction of the *Principal Certifying Authority*.

- e) Written approval must be obtained from the owners of the adjoining land to install any ground or rock anchors underneath.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

The following conditions of consent must be complied with prior to the commencement of any works on the site. The necessary documentation and information must be provided to the Council or the *'Principal Certifying Authority'*, as applicable.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity.

Certification and Building Inspection Requirements

30. Prior to the commencement of any building works, the following requirements must be complied with:

- a) a Construction Certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.

A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.

- b) a *Principal Certifying Authority* (PCA) must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
- c) a *principal contractor* must be appointed for the building work and the requirements of the *Home Building Act 1989* must be satisfied accordingly; and
- d) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*; and
- e) at least two days notice must be given to the Council, in writing, prior to commencing any works.

Home Building Act 1989

31. In accordance with section 80 A (11) of the Environmental Planning & Assessment Act 1979 and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, the relevant requirements of the *Home Building Act 1989* must be complied with.

Details of the Licensed Building Contractor and a copy of the relevant Certificate of Home Warranty Insurance or a copy of the Owner-Builder Permit (as applicable) must be provided to the Principal Certifying Authority and Council.

Construction Noise & Vibration Management Plan

32. A *Construction Noise & Vibration Management Plan*, prepared in accordance with the Environment Protection Authority (EPA) Guidelines for Construction Noise and Assessing Vibration, by a suitably qualified person, is to be developed and implemented prior to commencing site work and throughout the course of construction, in accordance with the following requirements:

- a) Noise and vibration emissions during the construction of the building and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents.

Noise and vibration from any rock excavation machinery, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management strategies.

- b) The *Construction Noise & Vibration Management Plan* must include details of measurements, analysis and relevant criteria and demonstrate that the noise and vibration emissions from the work satisfy the relevant provisions of the *Protection of the Environment Operations Act 1997*, current EPA Guidelines for Construction Noise and Assessing Vibration and Councils conditions of consent.
- c) A further report/correspondence must be obtained from the consultant as soon as practicable upon the commencement of works, which reviews and confirms the implementation and suitability of the noise and vibration strategies in the *Construction Noise & Vibration Management Plan* and which demonstrates compliance with relevant criteria.
- d) Any recommendations and requirements contained in the *Construction Noise & Vibration Management Plan* and associated reports are to be implemented accordingly and should noise and vibration emissions not comply with the terms and conditions of consent, work must cease forthwith and is not to recommence until details of compliance are submitted to Council and the PCA.

A copy of the *Construction Noise & Vibration Management Plan* and associated acoustic/vibration report/s must be maintained on-site and a copy must be provided to Council and the Principal Certifying Authority accordingly.

Public Liability

33. The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$10 million and a copy of the Insurance cover is to be provided to the Principal Certifying Authority and Council.

Construction Traffic Management

34. A detailed Construction Site Traffic Management Plan must be submitted to and approved by Council, prior to the commencement of any site work.

The Construction Site Traffic Management Plan must be prepared by a suitably qualified person and must include the following details, to the satisfaction of Council:

- A description of the demolition, excavation and construction works
- A site plan/s showing the site, roads, footpaths, site access points and vehicular movements
- Any proposed road and/or footpath closures
- Proposed site access locations for personnel, deliveries and materials
- Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site)
- Provision for loading and unloading of goods and materials

- Impacts of the work and vehicular movements on the road network, traffic and pedestrians
- Proposed hours of construction related activities and vehicular movements to and from the site
- Current/proposed approvals from other Agencies and Authorities (including NSW Roads & Maritime Services, Police and State Transit Authority)
- Any activities proposed to be located or impact upon Council's road, footways or any public place
- Measures to maintain public safety and convenience

The approved Construction Site Traffic Management Plan must be complied with at all times, and any proposed amendments to the approved Construction Site Traffic Management Plan must be submitted to and be approved by Council in writing, prior to the implementation of any variations to the Plan.

35. Any necessary approvals must be obtained from NSW Police, Roads & Maritime Services, Transport, and relevant Service Authorities, prior to commencing work upon or within the road, footway or nature strip.

Public Utilities

36. A public utility impact assessment must be carried out on all public utility services located on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the building works. The assessment should include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of services.
37. Documentary evidence from the relevant public utility authorities confirming they have agreed to the proposed works and that their requirements have been or are able to be satisfied, must be submitted to the Principal Certifying Authority prior to the commencement of any demolition, excavation or building works.

The owner/builder must make the necessary arrangements and meet the full cost for telecommunication companies, gas providers, Ausgrid, Sydney Water and other service authorities to adjust, repair or relocate their services as required.

Street Tree Management

38. Council supports the selective removal and replacement of existing street trees along the length of the Tunstall Avenue frontage as has been shown, with all of these tree works to only be performed by Council, wholly at the applicants cost, including:
 - a. Removal, stump-grinding and disposal of the following, from north to south:
 - The *Ulmus parvifolia* (Chinese Weeping Elm), T29, towards the northern site boundary, so as to accommodate the new vehicle crossing in this same location as shown;
 - Just north of the existing loading dock crossing, the two *Eriobotrya japonica* (Loquat's, T26-27), being one each on either side of the existing power pole, as well as the two smaller *Mangifera indica* (Mango's, T24-25) to their south;
 - To the south of the loading dock crossing, the *Agonis flexuosa* (Willow Myrtle, T23), *Schinus areira* (Peppercorn, T22), a smaller Frangipani,

then around the southern extent of the works, a group of *Hibiscus tileaceus* (Cottonwoods) and Wattles.

- b. To supply, plant and maintain evenly spaced 25 litre *Ulmus parvifolia* (Chinese Weeping Elms) along the length of the Tunstall Avenue verge, at the completion of all works.
39. The applicant must contact **Council's Landscape Development Officer on 9093-6613** to arrange a joint site meeting to confirm the exact scope of works and total cost to be incurred with street tree works, with full payment needing to be received into **Tree Amenity Income** at the Cashier on the Ground Floor of the Administrative Centre, **prior to the commencement of any site works.**
40. Following payment, the applicant must then advise Council's Landscape Development Officer of the receipt number, and giving at least four working weeks-notice (allow longer for public holidays or extended periods of rain) to arrange for the removals to be performed, prior to the commencement of works, as well as upon completion, to arrange for planting of the replacements.

Construction Site Management Plan

41. A *Construction Site Management Plan* must be developed and implemented prior to the commencement of any works. The construction site management plan must include the following measures, as applicable to the type of development:
 - location and construction of protective site fencing / hoardings;
 - location of site storage areas/sheds/equipment;
 - location of building materials for construction;
 - provisions for public safety;
 - dust control measures;
 - details of proposed sediment and erosion control measures;
 - site access location and construction
 - details of methods of disposal of demolition materials;
 - protective measures for tree preservation;
 - location and size of waste containers/bulk bins;
 - provisions for temporary stormwater drainage;
 - construction noise and vibration management;
 - construction traffic management details;
 - provisions for temporary sanitary facilities.

The site management measures must be implemented prior to the commencement of any site works and be maintained throughout the works, to the satisfaction of Council.

A copy of the Construction Site Management Plan must be provided to the Principal Certifying Authority and Council prior to commencing site works. A copy must also be maintained on site and be made available to Council officers upon request.

Demolition Work Plan

42. A Demolition Work Plan must be prepared for the development in accordance with Australian Standard AS2601-2001, Demolition of Structures and relevant environmental/occupational health and safety requirements.

The Demolition Work Plan must include the following information (as applicable):

- The name, address, contact details and licence number of the Demolisher/Asbestos Removal Contractor
- Details of hazardous materials (including asbestos)
- Method/s of demolition (including removal of any asbestos)

- Measures and processes to be implemented to ensure the health & safety of workers and community
- Measures to be implemented to minimise any airborne dust and asbestos
- Methods and location of disposal of any hazardous materials (including asbestos)
- Other relevant details, measures and requirements to be implemented
- Details of re-use, recycling and disposal of waste demolition/building materials
- Date the demolition works will commence

The Demolition Work Plan must be submitted to the Principal Certifying Authority (PCA), not less than two (2) working days before commencing any demolition work. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.

If the work involves asbestos products or materials, a copy of the Demolition Work Plan must also be provided to Council not less than 2 days before commencing those works.

Notes

- *It is the responsibility of the persons undertaking demolition work to obtain the relevant WorkCover licences and permits.*
- *Refer to the conditions within the "Requirements During Construction & Site Work", for further details and requirements relating to demolition work, removal of any asbestos and public safety.*

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity during construction.

Inspections during Construction

43. The building works must be inspected by the *Principal Certifying Authority*, in accordance with sections 109 E (3) of the *Environmental Planning & Assessment Act 1979* and clause 162A of the *Environmental Planning & Assessment Regulation 2000*, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

Construction Site Management

44. Public health, safety and convenience must be maintained at all times during demolition and building works and the following requirements must be complied with at all times:
 - a) A sign must be provided and maintained in a prominent position throughout the works, which contains the following details:
 - b)
 - name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
 - name, address and telephone number of the *Principal Certifying Authority*,

- a statement stating that “unauthorised entry to the work site is prohibited”.
- c) The roadway, footpath and nature strip must be maintained in a good, safe condition and free from any obstructions, trip hazards, materials, soils or debris at all times. Any damage caused to the road, footway or nature strip must be repaired immediately, to the satisfaction of Council.
 - d) Building materials, sand, soil, waste materials, construction equipment or other materials or articles must not be placed upon the footpath, roadway or nature strip at any time and the footpath, nature strip and road must be maintained in a clean condition and free from any obstructions, soil and debris at all times.
 - e) Bulk bins, waste containers or other articles must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container or other articles in a public place can be made to Council’s Building Services section.
 - f) During demolition and construction, sediment laden stormwater run-off shall be controlled using the sediment control measures outlined in the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom, to the satisfaction of Council.

Details of the proposed sediment control measures are to be detailed in the *site management plan* which must be submitted to the Principal Certifying Authority and Council prior to the commencement of any site works. The sediment and erosion control measures must be implemented prior to the commencement of any site works and be maintained throughout construction. A copy of the plan is to be maintained on-site and be made available to Council officers upon request.

- g) Public safety must be maintained at all times and public access to any demolition and building works, materials and equipment on the site is to be restricted. If necessary, a temporary safety fence or hoarding (having a minimum height of 1.5m) is to be provided to protect the public. Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible. If necessary, an overhead (B Class type) hoarding may be required to protect the public or occupants of the adjoining premises from falling articles or materials.

If it is proposed to locate any site fencing, hoardings or items upon any part of the footpath, nature strip or any public place, a Local Approval application must be submitted to and approved by Council’s Health, Building & Regulatory Services department beforehand. Details and plans are to be submitted with the application, together with payment of the weekly charge in accordance with Council’s adopted Pricing Policy.

- h) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual “Traffic Control at Work Sites” (Version 4), to the satisfaction of Council.

Building & Demolition Work Requirements

45. The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with Randwick City

Council's Asbestos Policy and the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2011;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- The Protection of the Environment Operations Act 1997;
- Randwick City Council Asbestos Policy (adopted 13 September 2005).

A copy of Council's Asbestos Policy is available on Council's web site or a copy can be obtained from Council's Customer Service Centre.

Removal of Asbestos Materials

46. Any work involving the demolition, storage or disposal of asbestos products and materials must be carried out in accordance with the following requirements:

- Occupational Health & Safety legislation and WorkCover NSW requirements
- Randwick City Council's Asbestos Policy
- A WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 10m² of bonded asbestos (or as otherwise specified by WorkCover or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence. A copy of the relevant licence must be provided to the Principal Certifying Authority.
- On sites involving the removal of asbestos, a sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' and include details of the licensed contractor.
- Asbestos waste must be stored, transported and disposed of in compliance with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation 2005*. Details of the landfill site (which must be lawfully able to receive asbestos materials) must be provided to the Principal Certifying Authority.
- A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos assessor or other competent person), must be provided to Council and the Principal certifying authority upon completion of the asbestos related works which confirms that the asbestos material have been removed appropriately and the relevant conditions of consent have been satisfied.

A copy of Council's Asbestos Policy is available on Council's web site at www.randwick.nsw.gov.au in the Building & Development Section or a copy can be obtained from Council's Customer Service Centre.

Site toilet facilities

47. Temporary toilet facilities are to be provided, at or in the vicinity of the work site throughout the course of demolition and construction, to the satisfaction of WorkCover NSW and the toilet facilities must be connected to a public sewer or other sewage management facility approved by Council.

Support of Adjoining Land, Excavations & Retaining Walls

48. In accordance with section 80 A (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 E of the *Environmental Planning & Assessment Regulation*

2000, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.

49. All excavations and backfilling associated with the erection or demolition of a building must be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and supported to prevent them from being dangerous to life, property or buildings.

Retaining walls, shoring or piling must be provided to support land which is excavated in association with the erection or demolition of a building, to prevent the movement of soil and to support the adjacent land and buildings, if the soil conditions require it. Adequate provisions are also to be made for drainage.

Retaining walls, shoring, or piling must be designed and installed in accordance with appropriate professional standards and the relevant requirements of the Building Code of Australia and Australian Standards. Details of proposed retaining walls, shoring or piling are to be submitted to and approved by the Principal Certifying Authority for the development prior to commencing such excavations or works.

Dust Control

50. During demolition excavation and construction works, dust emissions must be minimised, so as not to result in a nuisance to nearby residents or result in a potential pollution incident.

Adequate dust control measures must be provided to the site prior to the works commencing and the measures and practices must be maintained throughout the demolition, excavation and construction process, to the satisfaction of Council.

Dust control measures and practices may include:-

- *Provision of geotextile fabric to all perimeter site fencing (attached on the prevailing wind side of the site fencing).*
- *Covering of stockpiles of sand, soil and excavated material with adequately secured tarpaulins or plastic sheeting.*
- *Installation of a water sprinkling system or provision hoses or the like.*
- *Regular watering-down of all loose materials and stockpiles of sand, soil and excavated material.*
- *Minimisation/relocation of stockpiles of materials, to minimise potential for disturbance by prevailing winds.*
- *Landscaping and revegetation of disturbed areas.*

Temporary Site Fencing

51. Temporary site safety fencing or site hoarding must be provided to the perimeter of the site throughout demolition, excavation and construction works, to the satisfaction of Council, in accordance with the following requirements:

- a) Temporary site fences or hoardings must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control), or heavy-duty plywood sheeting (painted white), or other material approved by Council.
- b) Hoardings and site fencing must be designed to prevent any substance from, or in connection with, the work from falling into the public place or adjoining premises and if necessary, be provided with artificial lighting.
- c) All site fencing and hoardings must be structurally adequate, safe and be constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

- d) An overhead ('B' Class) type hoarding is required is be provided to protect the public (unless otherwise approved by Council) if:
- materials are to be hoisted (i.e. via a crane or hoist) over a public footway;
 - building or demolition works are to be carried out on buildings which are over 7.5m in height and located within 3.6m of the street alignment;
 - it is necessary to prevent articles or materials from falling and causing a potential danger or hazard to the public or occupants upon adjoining land;
 - as may otherwise be required by WorkCover, Council or the PCA.

Notes:

- *Temporary site fencing may not be necessary if there is an existing adequate fence in place having a minimum height of 1.5m.*
- *If it is proposed to locate any site fencing, hoardings, amenities or articles upon any part of the footpath, nature strip or public place at any time, a separate Local Approval application must be submitted to and approved by Council's Health, Building & Regulatory Services before placing any fencing, hoarding or other article on the road, footpath or nature strip.*

Restriction on Working Hours

52. Building, demolition and associated site works must be carried out in accordance with the following requirements:

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> • Monday to Friday - 7.00am to 5.00pm • Saturday - 8.00am to 5.00pm • Sunday & public holidays - No work permitted
Excavating or sawing of rock, use of jack-hammers, pile-drivers, vibratory rollers/compactors or the like	<ul style="list-style-type: none"> • Monday to Friday - 8.00am to 1.00pm only • Saturday - No work permitted • Sunday & public holidays - No work permitted
Additional requirements for all development	<ul style="list-style-type: none"> • Saturdays and Sundays where the preceding Friday and/or the following Monday is a public holiday - No work permitted

An application to vary the abovementioned hours may be submitted to Council's Manager Health, Building & Regulatory Services for consideration and approval to vary the specified hours may be granted in exceptional circumstances and for limited occasions (e.g. for public safety, traffic management or road safety reasons). Any applications are to be made on the standard application form and include payment of the relevant fees and supporting information. Applications must be made at least 10 days prior to the date of the proposed work and the prior written approval of Council must be obtained to vary the standard permitted working hours.

Survey Requirements

53. A Registered Surveyor's check survey certificate or other suitable documentation must be obtained at the following stage/s of construction to demonstrate compliance with the approved setbacks, levels, layout and height of the building to the satisfaction of the Principal Certifying Authority (PCA):

- prior to construction (pouring of concrete) of footings and boundary retaining structures,
- prior to construction (pouring of concrete) of each floor slab,
- upon completion of the building, prior to issuing an *Occupation Certificate*,
- as otherwise may be required by the PCA.

The survey documentation must be forwarded to the Principal Certifying Authority and a copy is to be forwarded to the Council, if the Council is not the Principal Certifying Authority for the development.

Building Encroachments

54. There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.

Road/Asset Opening Permit

55. Any openings within or upon the road, footpath, nature strip or in any public place (i.e. for proposed drainage works or installation of services), must be carried out in accordance with the following requirements, to the satisfaction of Council:
 - a) A *Road / Asset Opening Permit* must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the *Roads Act 1993* and all of the conditions and requirements contained in the *Road / Asset Opening Permit* must be complied with.
 - b) Council's Road / Asset Opening Officer must be notified at least 48 hours in advance of commencing any excavation works and also immediately upon completing the works (on 9399 0691 or 0409 033 921 during business hours), to enable any necessary inspections or works to be carried out.
 - c) Relevant *Road / Asset Opening Permit* fees, construction fees, inspection fees and security deposits, must be paid to Council prior to commencing any works within or upon the road, footpath, nature strip or other public place,
 - d) The owner/developer must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a *final occupation certificate* or occupation of the development (whichever is sooner).
 - e) Excavations and trenches must be back-filled and compacted in accordance with AUSPEC standards 306U.
 - f) Excavations or trenches located upon a road or footpath are required to be provided with 50mm depth of cold-mix bitumen finish, level with the existing road/ground surface, to enable Council to readily complete the finishing works at a future date.
 - g) Excavations or trenches located upon turfed areas are required to be back-filled, compacted, top-soiled and re-turfed with Kikuyu turf.
 - h) The work and area must be maintained in a clean, safe and tidy condition at all times and the area must be thoroughly cleaned at the end of each days activities and upon completion.
 - i) The work can only be carried out in accordance with approved hours of building work as specified in the development consent, unless the express written approval of Council has been obtained beforehand.

- j) Sediment control measures must be implemented in accordance with the conditions of development consent and soil, sand or any other material must not be allowed to enter the stormwater drainage system or cause a pollution incident.
- k) The owner/developer must have a Public Liability Insurance Policy in force, with a minimum cover of \$10 million and a copy of the insurance policy must be provided to Council prior to carrying out any works within or upon the road, footpath, nature strip or in any public place.

Traffic Management

- 56. Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.
- 57. All work, including the provision of barricades, fencing, lighting, signage and traffic control, must be carried out in accordance with the NSW Roads and Traffic Authority publication - 'Traffic Control at Work Sites' and Australian Standard AS 1742.3 – Traffic Control Devices for Works on Roads, at all times.
- 58. All conditions and requirements of the NSW Police, Roads & Maritime Services, Transport and Council must be complied with at all times.

Stormwater Drainage

- 59. Adequate provisions must be made to collect and discharge stormwater drainage during construction of the building to the satisfaction of the principal certifying authority.

The prior written approval of Council must be obtained to connect or discharge site stormwater to Council's stormwater drainage system or street gutter.

- 60. A separate written approval from Council is required to be obtained in relation to any proposed discharge of groundwater into Council's drainage system external to the site, in accordance with the requirements of Section 138 of the Roads Act 1993.

Tree Removal

- 61. Approval is granted for removal of the following trees from within the site, subject to full implementation of the approved Landscape Plans:
 - a. The closely planted row within the site, over the northern half of the western site boundary/existing brick wall/fence, being from north to south, three *Quercus robur* (English Oaks, T13, 11-10), and an *Erythrina x sykesii* (Coral Tree, T12), as all are in direct conflict with the new crossing and building that is shown for this same area;
 - b. The two small *Acacia saligna* (Wattles, T06 a-b) to their east for the same reasons;
 - c. The *Erythrina x sykesii* (Coral tree, T08) to their south, between T07 & T09, as this is an undesirable weed species that has also been suppressed by the two larger, more dominant trees either side;
 - d. The *Melaleuca armillaris* (Bracelet Honey Myrtle, T21), near the southwest corner of the site, given its poor condition, as well as to make way for the formal arrangement of tiered native screening trees that are shown for this same area;

- e. The two small trees on higher ground to the east of those described above, within the existing courtyard on Level 3, to the north of the Chapel, being a Flowering Cherry (T18) and a Frangipani (T19), should the applicant wish, as both are too small for Council's DCP;
- f. Similarly, the other group further to the northeast again, adjacent the existing Aged Care Administration building, being two *Citrus* (T15-16) and a *Blueberry Ash* (T17), as they are also exempt due to their small size, and are in direct conflict with the works.

Pruning

- 62. Permission is granted for the minimal and selective pruning of only those lower growing, lower branches from those trees that are being retained within the site, as listed in the '*Protection of trees within site*' condition, being T1-5, 7, 9, 14, only where they need to be pruned in order to avoid damage to the trees; or; interference with the approved works, and must be limited to 5% or less of their crown volumes, as specified in section 3.7 of the Arborists Report.
- 63. All pruning must only be undertaken by the Project Arborist; or; they must directly supervise an AQF Level III Practicing Arborist, to ensure that it is performed to the requirements of Australian Standard AS 4373-2007 '*Pruning of Amenity Trees*,' and NSW Work Cover Code of Practice for the Amenity Tree Industry (1998).
- 64. The Project Arborist must contact Council's Landscape Development Officer on 9093-6613 (giving at least 2 working days-notice) to arrange a joint site meeting, prior to commencing any pruning, to confirm the exact location and extent of pruning that is permissible, with the Arborist to comply with any instructions issued by Council.

Works to public verge

- 65. Should the applicant seek any further re-grading, re-turfing or similar works on Council's Tunstall Avenue verge as part of this application, Council's Landscape Development Officer (9093-6613) must be contacted to discuss requirements. If agreement is reached, such works will be wholly at the applicant's cost, and to Council's satisfaction, prior to the issue of any Occupation Certificate.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions of consent must be complied with prior to the '*Principal Certifying Authority*' issuing an '*Occupation Certificate*'.

Note: For the purpose of this consent, any reference to 'occupation certificate' shall also be taken to mean 'interim occupation certificate' unless otherwise stated.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

Occupation Certificate Requirements

- 66. An Occupation Certificate must be obtained from the Principal Certifying Authority prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning & Assessment Act 1979*.

An Occupation Certificate must not be issued for the development if the development is inconsistent with the development consent. The requirements of the *Environmental Planning & Assessment Act 1979* and conditions of development consent must be satisfied prior to the issuing of an occupation certificate.

Fire Safety Certificates

67. Prior to issuing an interim or final Occupation Certificate, a single and complete *Fire Safety Certificate*, encompassing all of the essential fire safety measures contained in the *fire safety schedule* must be obtained and be submitted to Council, in accordance with the provisions of the *Environmental Planning and Assessment Regulation 2000*. The *Fire Safety Certificate* must be consistent with the *Fire Safety Schedule* which forms part of the Construction Certificate.

A copy of the *Fire Safety Certificate* must be displayed in the building entrance/foyer at all times and a copy must also be forwarded to Fire and Rescue NSW.

Structural Certification

68. A Certificate must be obtained from a *professional engineer*, which certifies that the building works satisfy the relevant structural requirements of the Building Code of Australia and approved design documentation, to the satisfaction of the *Principal Certifying Authority*. A copy of which is to be provided to Council with the Occupation Certificate.

Council's Infrastructure, Vehicular Crossings & Road Openings

69. The owner/developer must meet the full cost for a Council approved contractor to:
- a) Construct a full width concrete heavy duty vehicular crossing and layback at kerb opposite the vehicular entrance to the premises to Council's specifications and requirements.

NOTE: Minimum 3 x 3 m splays are to be provide at the kerb
 - b) Construct a 1.3m wide concrete footpath between pedestrian entrance and Tunstell Avenue to Council's specification, as required.
70. Prior to issuing a final occupation certificate or occupation of the development (whichever is sooner), the owner/developer must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.
71. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:
- a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.
 - b) Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in

accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.

- c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.

Noise Control Requirements & Certification

72. The operation of plant and equipment shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997 and Regulations*.

In this regard, the operation of the plant and equipment shall not give rise to an $L_{Aeq, 15 \text{ min}}$ sound pressure level at any affected premises that exceeds the background $L_{A90, 15 \text{ min}}$ noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A) in accordance with relevant NSW Environment Protection Authority (EPA) Noise Control Guidelines.

73. A report must be obtained from a suitably qualified and experienced consultant in acoustics, which demonstrates and certifies that noise and vibration from any plant and equipment (e.g. mechanical ventilation systems and air-conditioners) satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Environment Protection Authority (EPA) Noise Control Manual, Industrial Noise Policy and Council's development consent.

A copy of the report must be provided to the *Principal Certifying Authority* and Council prior to an occupation certificate being issued.

Service Authorities Sydney Water

74. A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water's assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to their mains, and if required, will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator (WSC).

Go to sydneywater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

The Section 73 Certificate must be submitted to the Principal Certifying Authority and the Council prior to issuing an *Occupation Certificate*.

Undergrounding of Power

75. Should power to the site be provided from the nearest mains distribution pole in Tunstall Avenue, the power must be supplied via an underground (UGOH) connection. All work shall be to the requirements and satisfaction of Ausgrid and at no cost to Council.

Stormwater Drainage

76. A "restriction on the use of land" and "positive covenant" (under section 88E of the Conveyancing Act 1919) shall be placed on the title of the subject property to ensure that the onsite detention/infiltration system is maintained and that no works which could affect the design function of the detention/infiltration system are undertaken without the prior consent (in writing) from Council. Such restriction and positive covenant shall not be released, varied or modified without the consent of the Council.

Notes:

- a. The "restriction on the use of land" and "positive covenant" are to be to the satisfaction of Council. A copy of Council's standard wording/layout for the restriction and positive covenant may be obtained from Council's Development Engineer.
 - b. The works as executed drainage plan and hydraulic certification must be submitted to Council prior to the "restriction on the use of land" and "positive covenant" being executed by Council.
77. A works-as-executed drainage plan prepared by a registered surveyor and approved by a suitably qualified and experienced hydraulic consultant/engineer must be forwarded to the Principal Certifying Authority and the Council. The works-as-executed plan must include the following details (as applicable):
- The location of any detention basin/s with finished surface levels;
 - Finished site contours at 0.2 metre intervals;
 - Volume of storage available in any detention areas;
 - The location, diameter, gradient and material (i.e. PVC, RC etc) of all stormwater pipes;
 - The orifice size/s (if applicable);
 - Details of any infiltration/absorption systems; and
 - Details of any pumping systems installed (including wet well volumes).
78. The applicant shall submit to the Principal Certifying Authority (PCA) and Council, certification from a suitably qualified and experienced Hydraulic Engineer, which confirms that the design and construction of the stormwater drainage system complies with the Building Code of Australia, Australian Standard AS3500.3:2003 (Plumbing & Drainage- Stormwater Drainage) and conditions of this development consent.
- The certification must be provided following inspection/s of the site stormwater drainage system by the Hydraulic Engineers to the satisfaction of the PCA.
79. The applicant shall submit to the Principal Certifying Authority (PCA) and Council certification from a suitably qualified and experienced professional engineer, confirming that that any required sub-soil drainage systems have been provided in accordance with the conditions of this consent. There must be no dry weather seepage/groundwater flows discharging to Council's street gutter.

Landscaping

80. Prior to issuing any type of Occupation Certificate, certification from a qualified professional in the landscape/horticultural industry must be submitted to, and be approved by, the PCA, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the Landscape Plans by Arterra Design Pty Ltd, dwg's L-SD-01 – 03, rev C, dated 19.07.17.
81. Suitable strategies shall be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.
82. The nature-strip upon Council's Tunstall Avenue footway shall be re-graded and re-turfed with Kikuyu Turf rolls, including turf underlay, wholly at the applicant's cost, to Council's satisfaction, prior to the issue of any Occupation Certificate.

Site Arborist Certification

83. Prior to the issue of any Occupation Certificate, the Project Arborist must submit to, and have approved by, the PCA, written certification which confirms

compliance with the conditions of consent, the Arborists Report Recommendations, Tree Protection Plan or similar; the dates of attendance on-site and any works performed/supervised relating to the retention of those trees listed in the 'Street Tree Protection' & 'Protection of trees within the site' conditions.

Tree Protection Certification

49. Prior to the PCA issuing any Occupation Certificate, written certification must also be obtained from Council's Landscape Development Officer (9093-6613) confirming that the requirement for a joint inspection was performed in accordance with the 'Pruning' conditions, along with any other instructions issued on-site during the course of works.

Waste Management

50. Prior to the occupation of the development, the owner or applicant is required to contact Council's City Services department, to make the necessary arrangements for the provision of waste services for the premises.
84. The waste storage areas shall be clearly signposted.

OPERATIONAL CONDITIONS

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

Stormwater Detention/Infiltration System

85. Any detention/stormwater system must be regularly cleaned and maintained to ensure it functions as required by the design.

Fire Safety Statements

86. A single and complete *Fire Safety Statement* (encompassing all of the fire safety measures upon the premises) must be provided to the Council in accordance with the requirements of the *Environmental Planning & Assessment Regulation 2000*.

The *Fire Safety Statement* must be provided on an annual basis each year following the issue of the *Fire Safety Certificate*, and other period if any of the fire safety measures are identified as a *critical fire safety measure* in the *Fire Safety Schedule*.

The *Fire Safety Statement* is required to confirm that all the fire safety measures have been assessed by a properly qualified person and are operating in accordance with the standards of performance specified in the *Fire Safety Schedule*.

A copy of the *Fire Safety Statement* must be displayed in the building entrance/foyer at all times and a copy must also be forwarded to Fire & Rescue NSW.

87. External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.

GENERAL ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, or other relevant legislation and requirements. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

- A1 The requirements and provisions of the *Environmental Planning & Assessment Act 1979* and *Environmental Planning & Assessment Regulation 2000*, must be fully complied with at all times.

Failure to comply with these requirements is an offence, which renders the responsible person liable to a maximum penalty of \$1.1 million. Alternatively, Council may issue a penalty infringement notice (for up to \$6,000) for each offence. Council may also issue notices and orders to demolish unauthorised or non-complying building work, or to comply with the requirements of Council's development consent.

- A2 In accordance with the requirements of the *Environmental Planning & Assessment Act 1979*, building works, including associated demolition and excavation works (as applicable) must not be commenced until:

- A *Construction Certificate* has been obtained from an Accredited Certifier or Council,
- An Accredited Certifier or Council has been appointed as the *Principal Certifying Authority* for the development,
- Council and the Principal Certifying Authority have been given at least 2 days notice (in writing) prior to commencing any works.

- A3 Council's Building Certification & Fire Safety team can issue your *Construction Certificate* and be your *Principal Certifying Authority* for the development, to undertake inspections and ensure compliance with the development consent, relevant building regulations and standards of construction. For further details contact Council on 9093 6944.

- A4 Any proposed amendments to the design and construction of the building may require a new development application or a section 96 amendment to the existing consent to be obtained from Council, before carrying out such works

- A5 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place.

- A6 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:

- the consent of the owners of such adjoining or supported land to trespass or encroach, or
- an access order under the *Access to Neighbouring Land Act 2000*, or
- an easement under section 88K of the *Conveyancing Act 1919*, or
- an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.

Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that

removes the support provided by the supporting land to any other adjoining land (the supported land).

- A7 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.
- A8 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 or telephone on 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.
- A9 The applicant is to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.
- A10 Further information and details on Council's requirements for trees on development sites can be obtained from the recently adopted Tree Technical Manual, which can be downloaded from Council's website at the following link, <http://www.randwick.nsw.gov.au> - Looking after our environment – Trees – Tree Management Technical Manual; which aims to achieve consistency of approach and compliance with appropriate standards and best practice guidelines.