

N0611/16 – 23-27 Warriewood Road, Warriewood (Lots 27, 28 & 29, Section C, DP 5464)

Construction of a residential aged care facility containing 130 sole occupancy high care rooms, subdivision and associated civil works, and the extension of a public road

SUMMARY OF RECOMMENDATION:	Consent with conditions
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APPLICATION SUBMITTED ON:	30 December 2016
APPLICATION SUBMITTED BY:	J & G Knowles & Associates Pty Ltd C/ Urbis Pty Ltd
OWNER:	J & G Knowles & Associates Pty Ltd
COST OF WORKS:	\$36,020,000.00
NO. OF SUBMISSIONS:	4
DEVELOPMENT TYPE:	Integrated (DPI Water)
DETERMINATION LEVEL:	Sydney North Planning Panel

1.0 INTRODUCTION

The proposal is for the construction of a residential aged care facility containing 130 sole occupancy high care rooms, subdivision and associated civil works, and the extension of a public road. The applicant has indicated a cost of works, or Capital Investment Value (CIV), of approximately \$36.02 million, and as such, the application must be referred to the Sydney North Planning Panel (SNPP) for determination.

2.0 SITE DETAILS

The works proposed within this application are located over three (3) separate allotments, as follows;

- 23 Warriewood Road, Warriewood (Lot 27, Section C, DP 5464)
- 25 Warriewood Road, Warriewood (Lot 28, Section C, DP 5464)
- 27 Warriewood Road, Warriewood (Lot 29, Section C, DP 5464)

When combined, the site has a 223.7m wide frontage to Warriewood Road (east), a 142.6m wide frontage to Macpherson Street (south), and has a total area of 2.533 Hectares. The site also adjoins Narrabeen Creek for the full length of the western boundary. An existing dwelling is located in the north-east corner of the site, with vehicular access to Warriewood Road. With the exception of the existing dwelling and some established vegetation along the creekline, the site is generally clear and free of development.

The site experiences a gentle slope from the Warriewood Road boundary down towards the creekline, with a fall of approximately 13.5m and a slope of approximately 9%. The frontages to both Warriewood Road and Macpherson Street lack any formalised kerb and guttering, and no footpaths are present in the vicinity of the site. Overhead electricity wires are located along the Warriewood Road street frontage.

Macpherson Street is a two-lane sub-arterial road that is temporarily closed for substantial upgrades to the road network. The previous road pavement followed the contours of the land, and was susceptible to flooding on a semi-regular basis. The upgrade works currently underway will provide for the construction of a bridge to allow for unimpeded pedestrian and vehicular access along Macpherson Street during heavy rain/flood events. The bridge will be elevated above the levels of the site at a minimum RL of 4.16m AHD, with no pedestrian or vehicular connection to the Macpherson Street frontage of the site. A Sydney Water Sewerage Treatment Plant is located

opposite the site on the southern side of Macpherson Street, with a market garden located to the west (on the other side of Narrabeen Creek).

Warriewood Road is a two-lane collector street, with on-street parking on both sides. There are existing bus stops immediately adjacent to and opposite the site, with regular services to Mona Vale (north-bound) and the City (south-bound). The eastern side of Warriewood Road is characterised by one and two storey detached dwellings, with recently approved medium density development along the eastern side of Warriewood Road to the north of the site.

The site is identified as Buffer Area 1L of the Warriewood Valley Release Area, as shown on the Warriewood Valley Release Area Map of PLEP 2014.



Figure 1 - Aerial image of site (bordered in yellow)
Source: NearMap

3.0 PROPOSED DEVELOPMENT

The applicant seeks consent for the following development to the site;

- Demolition of all existing site improvements and removal of canopy trees,
- Earthworks and excavation,
- Subdivision of the site into four lots, as follows:
 - Lot 1, a residential superlot with an area of 9927m²,
 - Lot 2, a residential superlot with an area of 8192m²,
 - Lot 3, with an area of 4281m² being the inner creekline corridor to be dedicated to Council, and
 - Lot 4, with an area of 2890m² being the Lorikeet Grove public road reserve to be dedicated to Council,
- Construction of a 2 and 3 storey residential aged care facility on Lot 1, comprising:
 - 130 sole occupancy, high care rooms,

- 67 off-street carparking spaces,
- Multiple internal and external living and dining areas,
- Staff facilities and administration areas,
- Resident amenities, including a salon, gymnasium, café, etc.,
- Construction of the Lorikeet Grove public road reserve,
- Half road reconstruction of Warriewood Road,
- Infrastructure, including water management detention basins, and
- Landscaping.

Note: Whilst residential development is shown on proposed Lot 2, the detail is indicative only and the application does not seek consent for these works.

4.0 LEGISLATION, PLANS AND POLICIES

The following planning legislation, environmental planning instruments, development control plans and policies are relevant to the subject application:

- Environmental Planning and Assessment Act 1979 (**'the Act'**)
- Environmental Planning and Assessment Regulation 2000 (**'the Regulations'**)
- Water Management Act 2000
- Roads Act 1993
- State Environmental Planning Policy No.55 – Remediation of Land
- State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (**'SEPP HSPD'**)
- State Environmental Planning Policy (Infrastructure) 2007
- Pittwater Local Environmental Plan 2014 (**'PLEP 2014'**)
 - Zoning Map - R3 Medium Density Residential
 - Warriewood Valley Release Area Map – Buffer Area 1L
 - Height of Buildings Map – K and Area 6
 - Biodiversity Map (part site only)
 - Acid Sulphate Soils Map – Classes 3, 4 & 5
- Pittwater 21 Development Control Plan (**'P21 DCP'**)
 - Warriewood Valley Locality
 - Within 400m of Warriewood Wastewater Treatment Plant
- Warriewood Valley Strategic Review Report 2012 (**'Strategic Review'**)
- Warriewood Valley Strategic Review Addendum Report 2014 (**'Strategic Review Addendum'**)
- Warriewood Valley Roads Masterplan 2016 (**'Roads Masterplan'**)
- Warriewood Valley Landscape Masterplan and Design Guidelines (Public Domain) (**'Landscape Masterplan'**)
- Warriewood Valley Urban Land Release Water Management Specification (**'Water Management Specification'**)
- Roads and Maritime Services Guide to Traffic Generating Development (**'RMS Guidelines'**)

Planning Proposal (PP0002/15), which seeks to amend provisions of PLEP 2014 that relate to the proposed development, was publically exhibited from 22 April through to 22 May 2017. The amendments proposed by the planning proposal are not considered to be imminent or certain at this time, and had not been publically exhibited at the time that the subject application was lodged.

5.0 PERMISSIBILITY

The site is zoned R3 Medium Density Residential under the provisions of PLEP 2014, and in accordance with the land use table of this instrument, the proposed residential care facility, being a form of seniors housing, is permissible with consent.

However, the proposal is also subject to the provisions of clause 6.1(3) of PLEP 2014 which prescribe that development consent must not be granted for development on land in Buffer Area 1L unless the consent authority is satisfied that not more than 67 dwellings and not less than 43 dwellings will be erected. As found in *Karimbla Constructions Services (NSW) Pty Ltd v Pittwater Council* and *Lotus Project Management Pty Ltd v Pittwater Council*, this dwelling yield is not a development standard that can be varied, but rather acts to prohibit development that is not in accordance with the nominated range. Noting that an aged care facility is not a dwelling as defined by PLEP 2014, the consent authority must be satisfied that at least 43 dwellings are able to be accommodated on the residential super lot (Lot 2) resulting from the proposed development.

To aid consideration of this issue, the applicant has provided detailed design drawings for a 44 dwelling proposal on the resultant Lot 2, comprised of a 22 multi-dwelling housing units and a residential flat building with 22 units. A prelodgement meeting has also been held in the time since the application was lodged for a 44 dwelling proposal on the resultant Lot 2, comprised of 12 multi-dwelling housing units and a residential flat building of 32 units.

Council's Land Release Team provided the following comments in this regard:

Lot 2, being 11400m² and at 113m x 130m (approximately), is of sufficient size and dimensions that is suitable to accommodate future dwellings, noting that P21 DCP control C6.8 Residential Development Subdivision Principles requires "the minimum dimension of a lot proposed to contain a RFB is 30m in any direction".

Overall, the consent authority should be satisfied that at least 43 dwellings will ultimately be erected on the Site, consistent with the provisions of clause 6.1(3) of PLEP 2014 and as such, the proposed development is permissible with consent.

However, even if the consent authority is not satisfied in this respect, and the proposed development was seen to be prohibited under the provisions of PLEP 2014, the proposal would otherwise be permitted under the provisions of SEPP HSPD, which permits seniors housing on land where it may otherwise be prohibited and prevails over PLEP 2014 in the event of any inconsistencies.

6.0 BACKGROUND

On 10 May 2016, a prelodgement meeting was held with Council staff with regards to a seniors housing development and 44 dwelling residential development at the Site.

On 20 December 2016, the subject application was lodged with Council. The application was internally referred to Council's Development Engineer, Section 94 Officer, Community Services Department, Warriewood Valley Technical Team, and Land Release Team for comments and/or recommendations. The application was also referred to Sydney Water, given the sites proximity to Warriewood Wastewater Treatment Plant, and the Department of Primary Industries – Water for controlled activity approval.

On 22 March 2017, a briefing meeting was held with the Sydney North Planning Panel.

On 29 March 2017, a request for additional information was sent to the applicant, with respect to the following:

- Staging detail
- Water management
- Access and road design
- Setback to Warriewood Road
- Setback to Macpherson Street
- Landscaping
- Subdivision plan
- Shared path design and location

On 12 May 2017, additional information was submitted to Council.

On 16 May 2017, a prelodgement meeting was held with Council staff with regards to a 44 dwelling residential development on the superlot resulting from the subject application (Lot 2).

7.0 ADVERTISEMENT AND NOTIFICATION

The application was advertised and notified to adjoining property owners and the Warriewood Residents Association for a period of thirty-one (31) days from 16 January through to 16 February 2017, in accordance with the Regulations and Council's Notification Policy. During the advertisement/notification period, submissions were received from four (4) nearby or adjoining property owners, raising concerns with regards to the following;

- The height of the development/number of storeys presenting to the street
- The extension of Lorikeet Grove and the amount of dwellings it will serve
- Overdevelopment
- The incorporation of residential flat buildings in Warriewood Valley
- Amount of green space
- Provision of parking

8.0 ASSESSMENT ISSUES

The key issues considered in the assessment of this application are summarised as follows;

- **Access to facilities**
 - Clause 26 (Location and access to facilities) of SEPP HSPD
 - Clause 38 (Accessibility) of SEPP HSPD
- **Height**
 - Clause 4.3 (Height of Buildings) of PLEP 2014
 - Clause 4.6 (Exceptions to development standards) of PLEP 2014
- **Character & presentation to street frontages**
 - Clause 33 (Neighbourhood amenity and streetscape) of SEPP HSPD
 - Clause D16.1 (Character as viewed from a public place) of P21 DCP
 - Clause D16.6 (Front building lines) of P21 DCP

These issues, and other areas of concern and/or non-compliance, are identified in the following compliance tables and are discussed in greater detail further in the report.

9.0 SEPP HSPD COMPLIANCE TABLE

C - Can the proposal satisfy the technical and performance requirements of the clause?

Clause	Standard	Proposal	C
Chapter 1 - Preliminary			
2	Aims of Policy	This Policy aims to encourage the provision of housing (including residential care facilities) that will: <ul style="list-style-type: none"> (a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and (b) make efficient use of existing infrastructure and services, and (c) be of good design. 	Y
4	Land to which the Policy applies	This Policy applies to land within NSW that is land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, but only if development for the purpose of dwelling houses or residential flat buildings is permitted.	Y

Clause		Standard	Proposal	C
5	Relationship with other environmental planning instruments	If this Policy is inconsistent with any other environmental planning instrument, made before or after this Policy, the Policy prevails to the extent of the inconsistency.		Y
Chapter 2 – Key Concepts				
11	Residential Care Facilities	In this Policy, a residential care facility is 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 proposed development is consistent with the definition of a residential care facility.	Y
Chapter 3 – Development for seniors housing				
Part 1 – General				
14	Objectives of Chapter	The objective of this Chapter is to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age.		Y
15	What Chapter does	This Chapter allows for development on land zoned primarily for urban purposes for any form of seniors housing despite the provisions of any other environmental planning instrument if the development is carried out in accordance with this Policy.		Y
18	Restrictions on occupation of seniors housing allowed under this chapter	Development allowed by this Chapter may be carried out for the accommodation of the following only: (a) seniors or people who have a disability, (b) people who live within the same household with seniors or people who have a disability, (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy. A consent authority must not consent to a development application made pursuant to this Chapter unless: (a) a condition is imposed by the consent authority to the effect that only the kinds of people referred to above may occupy the building to which the application relates, & (b) the consent authority is satisfied that a restriction as to user will be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the <i>Conveyancing Act 1919</i> , limiting the use of any accommodation to which the application relates to the kinds of people referred to above.	Subject to conditions.	Y
Part 2 – Site-related requirements				
26	Location and access to facilities	The consent authority must be satisfied, by written evidence, that residents of the proposed development will have compliant access to: (a) shops, bank service providers and other retail and commercial services that residents may	Subject to conditions. See discussion.	Y

Clause	Standard	Proposal	C	
	reasonably require, and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner.			
28	Water and sewer	The consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage	Y	
29	Site compatibility criteria to which clause 24 does not apply	Applies to development not subject to clause 24. A consent authority must take into consideration and have regard for the criteria referred to in clause 25 (5) (b) (i), (iii) and (v).	Y	
Part 3 – Design requirements				
Division 1 - General				
30	Site analysis	The consent authority must not grant consent unless the consent authority is satisfied that the applicant has taken into account a site analysis prepared by the applicant in accordance with this clause.	Y	
32	Design of residential development	A consent authority must not consent to a development application unless satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2.	Y	
Division 2 - Design Principles				
33	Neighbourhood amenity and streetscape	The proposed development should: (a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and (b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and (c) maintain reasonable neighbourhood amenity and appropriate residential character by: (i) providing building setbacks to reduce bulk and overshadowing, and (ii) using building form and siting that relates to the site's land form, and (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and (iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and (d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and (e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and (f) retain, wherever reasonable, major existing trees, and (g) be designed so that no building is constructed in a riparian zone.	See discussion.	Y

Clause		Standard	Proposal	C
34	Visual and acoustic privacy	The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents.		Y
35	Solar access and design for climate	The proposed development should: (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation, solar heating and lighting by locating the windows of living and dining areas in a northerly direction.		Y
36	Stormwater	The proposed development should: (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and (b) include, where practical, on-site stormwater detention or re-use for second quality water uses.	Subject to conditions. See discussion with respect to P21 DCP.	Y
37	Crime prevention	The proposed development should provide personal property security for residents and visitors and encourage crime prevention by: (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and (b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.		Y
38	Accessibility	The proposed development should: (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.	Subject to conditions. See discussion.	Y
39	Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	Subject to conditions.	Y
Part 4 – Development standards to be complied with				
Division 1 - General				
40	Development standards – minimum sizes and building heights	A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.		
		Site size The size of the site must be at least 1,000m ² .	9,927m ²	Y
		Site frontage	>80 metres	Y

Clause	Standard	Proposal	C	
	The site frontage must be at least 20 metres wide measured at the building line.			
	Height in zones where residential flat buildings are not permitted.		-	
Division 2 – Residential care facilities				
Note. Development standards concerning accessibility and useability for residential care facilities are not specified in this Policy. For relevant standards, see the Commonwealth aged care accreditation standards and the <i>Building Code of Australia</i> .			Y	
Part 5 – Development on land adjoining land zoned primarily for urban purposes				
44	Availability of facilities and services	A consent authority must be satisfied that any facility or service provided as a 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.	Subject to conditions.	Y
Part 7 – Development standards that cannot be used as grounds to refuse consent				
Division 1 - General				
46	Inter-relationship of Part with design principals in Part 3	Nothing in this Part permits the granting of consent to a DA made pursuant to this Chapter if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles set out in Division 2 of Part 3.		Y
Division 2 – Residential care facilities				
48	Standards that cannot be used to refuse development consent for residential care facilities	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 on any of the following grounds:		
	building height: if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys),	9.57 metres Development is not proposed for refusal		Y
	density and scale: if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less	0.83:1		Y
	landscaped area: if: if a minimum of 25 square metres of landscaped area per residential care facility bed is provided.	33.8m ² per bed		Y
	parking for residents and visitors: if at least the following is provided: (i) 1 parking space for each 10 beds in the residential care facility; 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.	66 spaces		Y
Chapter 4 - Miscellaneous				
55	Residential care facilities- fire sprinkler systems	A consent authority must not grant consent to carry out development for the purpose of a residential care facility for seniors unless the proposed development includes a fire sprinkler system.	Subject to condition.	Y

Issues marked with an (-) are not applicable for the subject application.

10.0 DISCUSSION OF ISSUES – SEPP HSPD

Location and access to facilities

- **Clause 26 (Location and access to facilities) of SEPP HSPD**
- **Clause 38 (Accessibility) of SEPP HSPD**

Clause 26(1) of SEPP HSPD requires the consent authority to be satisfied, by written evidence, that residents of the proposed development will have access to:

- a. Shops, bank service providers and other retail and commercial services that residents may reasonably require, and*
- b. Community services and recreation facilities, and*
- c. The practise of a general medical practitioner.*

Access is deemed to comply if the above mentioned facilities are located at a distance of not more than 400m from the site and accessible by a suitable access pathway, or if the site is within 400m of a public bus stop that is serviced by a bus that will take residents to such facilities and that both the bus stop and facilities are accessible by a suitable access pathway. A suitable access pathway is defined by SEPP HSPD as a “*path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like*”

The statement of environmental effects provides the following comment in this regard:

There is a bus stop located immediately adjacent to the proposed RACF on Warriewood Road, with another bus stop located directly across the road. Sydney Buses operate bus routed 185, E85 and L85 from these bus stops and provide daily services to commercial centres at Warriewood Square, Mona Vale, Narrabeen, Warringah Mall and to Sydney CBD which satisfy clause 26(1) and (5)... Residents, staff and visitors will have easy access to and from the two bus stops... The travel path from the RACF to the bus stops comply with the requirements of clause 26(2). The proposal satisfies the requirements of clause 26 of the Seniors SEPP with regards to location and access to facilities.

Whilst there is no doubt that both bus stops are located within 400m of the site, and that they are serviced by public buses that would take residents to and from the facilities identified by clause 26(1) of SEPP HSPD, there is concern in relation to the accessible path of travel, or lack thereof, to the existing bus stop on the eastern/opposite side of Warriewood Road. Upgrade works to the bus stop on the western side of Warriewood Road, immediately adjacent to the site, are proposed as part of the subject application and as a result of these works, access to the bus stop on the western side of the road will achieve consistency with the design requirements of clause 26(3) of SEPP HSPD. However, there is no ramped kerb crossing point or footpath to the bus stop on the eastern side of the Warriewood Road, and as such, the application is let down in this regard.

This issue was raised with the applicant, who subsequently provided the following comment in this regard:

With regards to the accessible path of travel to the bus stop on the eastern side of Warriewood Road, we submit that such a path is not necessary for the proposed facility. The proposal is a high care facility which will accommodate residents who are not independently mobile and who require constant supervision and care. As such, the residents of the facility will not be utilising public transport options.

Although it is generally agreed that it is unlikely that residents of the proposed high care facility will utilise public transport, the provisions of clause 26 of SEPP HSPD apply equally to all types of seniors housing and in its current form, there is no provision within the policy to allow for the requirements of clause 26 to be ignored, simply because of the type of seniors housing

proposed. Furthermore, as found by Justice Robson in *Principal Healthcare Finance Pty Ltd v Council of the City of Ryde [2016] NSWLEC 153*, clause 26 of SEPP HSPD is a development standard that is amenable to clause 4.6 of the relevant local environmental planning instrument, yet no such request to vary a development standard has been provided to accompany the application.

In acknowledgement of the comments in the statement of environmental effects, which seek to rely upon the existing bus stop on the opposite side of Warriewood Road to achieve compliance with clause 26 of SEPP HSPD, conditions of consent are recommended to require a suitable access pathway to be provided between the site and the bus stop on the opposite side of the street. The practicalities of requiring these works to be undertaken by the applicant has been discussed with Council's Traffic Engineer, who has recommended that a pedestrian refuge be incorporated into the design of the roundabout at the Hill Street, Warriewood Road and Lorikeet Grove intersection, to provide a safe ramped kerb crossing point across Warriewood Road. A footpath would also need to be constructed to link the crossing point to the bus stop, which would need to be designed to minimise impacts upon existing street trees within the public road reserve.

Whilst access to public transport may not be aligned with the needs of high care residents of the proposed aged care facility, a suitable access pathway connecting the site to the bus stop on the opposite side of the street is considered to be of benefit to visitors and staff of the proposed development, who are likely to travel to the site by means of public transport. With this in mind, the provision of a suitable access pathway to the bus stop on the opposite side of the street is also seen to be warranted in consideration of clause 38 of SEPP HSPD, which states that the proposal should "*have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors*".

Character

- **Clause 33 (Neighbourhood amenity and streetscape) of SEPP HSPD**

The proposed development is located within the Warriewood Valley Release Area, which is an area that is currently transitioning from rural residential landholdings to medium density development. The desired character of the Warriewood Valley Release Area locality is identified in clause A4.16 of P21 DCP, which states:

Warriewood Valley Release Area continues to be developed as a desirable urban community in accordance with the adopted planning strategy for the area, and will include a mix of low to medium density housing, industrial/commercial development, open space and community services. The creekline corridors, roads and open space areas form the backbone of the new community, complemented with innovative water management systems, the natural environment, pedestrian/cycle path network, public transport, and recreation facilities.

Clause 33 of SEPP HSPD prescribes that the proposed development should recognise the desirable elements of the desired future character of the locality, so that new buildings contribute to the quality and identity of the area. Furthermore, clause 33 of SEPP HSPD identifies that the proposal should maintain reasonable neighbourhood amenity and appropriate residential character by:

- a. providing building setbacks to reduce bulk and overshadowing, and*
- b. using building form and siting that relates to the site's land form, and*
- c. adopting building heights at the street frontage that are compatible in scale with adjacent development, and*
- d. considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours.*

Whilst within a medium density zone, the site is located on the edge of the land release area, with established low density residential dwellings located on the eastern side of Warriewood Road. As such, the development needs to be designed to be sympathetic and compatible with the scale of the one and two storey detached residences on the opposite side of the street.

In *Project Venture Developments v Pittwater Council [2005] NSWLEC 191*, a planning principle was developed to assist in assessing the visual impact of a new development and its compatibility with the existing streetscape. The planning principle emphasises the importance of the relationship of built form to surrounding spaces, with the relationship created by building height, setbacks, landscaping and in some locations, architectural style and materials. Further guidance is provided in *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council [2003] NSWLEC 268*, whereby the court found that in circumstances where a seniors housing development is larger than other buildings in the street, it should be broken up so that it does not appear as one building and sections of the building should be separated by generous breaks and landscaping.

Concern was raised in regards to the original proposal, which featured a generally flat and unarticulated 80m wide façade fronting Warriewood Road. The front setback to Warriewood Road was also dominated with hard surfaces and featured a porte-cochere that spanned the full depth of the setback area. The landscaping did little to assist in this respect, with the majority of canopy trees being deciduous species.

Amended plans were prepared to address these concerns, with the following statement provided in this regard:

The updated plans include additional articulation along the front façade of the building and have also paid closer attention to the materiality and colours to introduce a series of forward and prominent sections which will be broken up by recessed 'negative' spaces which will be coloured in a darker colour to emphasise the sections... The concept of this approach is such to break up the building length into sections comparable with the low density dwelling house profile on the eastern side of Warriewood Road. This approach provides a sympathetic response to the desired streetscape character, while maintaining the layout requirements of the use. In addition to the articulation, additional landscaping has been included in the updated landscape plan.

The amended plans and commentary were referred to Council's Urban Designer and Landscape Architect who have both advised that the amended proposal satisfies their initial concerns regarding the scale of the development.

The proposal will still result in a large building with comparability wide frontages presenting to all street frontages and the creekline corridor. However, seniors housing developments and other larger scale developments are anticipated within the R3 zone, and are evident within the wider Warriewood Valley Release Area locality. Reasonable attempts have been made to reduce the width of the development, with a greater incorporation of landscaping within the front setbacks and the use of varied materials and recesses that act to break down the horizontal massing of the development. Subject to conditions of consent, specifically to replace the proposed deciduous canopy trees with locally native species, the amended proposal is considered to be compatible with adjacent development and generally consistent with the desired character of the Warriewood Valley Release Area Locality.

11.0 PLEP 2014 and P21 DCP COMPLIANCE TABLE

T - Can the proposal satisfy the technical requirements of the control?

O - Can the proposal achieve the control outcomes?

N - Is the control free from objection?

Control	Standard	Proposal	T	O	N
Pittwater Local Environmental Plan 2014					
2.6 Subdivision – consent requirements			Y	Y	Y
Zone R3 Medium Density Residential			Y	Y	Y
4.3 Height of Buildings	10.5m, 8.5m at street frontage	11.32m, 8.75m at street frontage	N	Y	N
4.6 Exceptions to development standards		See discussion.	Y	Y	Y
6.1 Warriewood Valley Release Area		See discussion.	Y	Y	N
7.1 Acid sulphate soils			Y	Y	Y
7.2 Earthworks			Y	Y	Y
7.3 Flood planning			Y	Y	Y
7.4 Floodplain risk management			Y	Y	Y
7.6 Biodiversity			Y	Y	Y
7.10 Essential services			Y	Y	Y
Pittwater 21 Development Control Plan					
3.1 Submission of a Development Application and payment of appropriate fee			Y	Y	Y
3.2 Submission of a Statement of Environmental Effects			Y	Y	Y
3.3 Submission of supporting documentation - Site Plan / Survey Plan / Development Drawings			Y	Y	Y
3.4 Notification			Y	Y	Y
3.5 Building Code of Australia			Y	Y	Y
4.2 Integrated Development: Rivers, Streams and Foreshores	GTAs required from DPI – Water.	GTAs provided.	Y	Y	Y
6.6 Section 94 Contributions – Warriewood Valley		See discussion.	Y	Y	Y
A1.7 Considerations before consent is granted		See discussion.	Y	Y	N
A4.16 Warriewood Valley Release Area Locality			Y	Y	Y
B1.4 Aboriginal Heritage Significance			Y	Y	Y
B3.6 Contaminated Land and Potentially Contaminated Land			Y	Y	Y
B3.18 Flood Hazard – Flood Category 1 – High Hazard - Other Development			Y	Y	Y
B3.20 Flood Hazard – Flood Category 1 – High Hazard - Subdivision			Y	Y	Y
B3.23 Climate Change (Sea Level Rise and Increased Rainfall Volume)			Y	Y	Y
B3.25 Flood Hazard – Flood Emergency Response planning			Y	Y	Y
B6.3 Off-Street vehicle parking requirements			-	-	N
B8.1 Construction and Demolition - Excavation and Landfill			Y	Y	Y
B8.2 Construction and Demolition - Erosion and Sediment Management			Y	Y	Y
B8.3 Construction and Demolition - Waste Minimisation			Y	Y	Y
B8.4 Construction and Demolition - Site Fencing and Security			Y	Y	Y

Control	Standard	Proposal	T	O	N
B8.5 Construction and Demolition - Works in the Public Domain			Y	Y	Y
B8.6 Construction and Demolition - Traffic Management Plan			Y	Y	Y
C1.3 View Sharing			Y	Y	Y
C1.9 Adaptable Housing and Accessibility			Y	Y	Y
C1.12 Waste and Recycling Facilities			Y	Y	Y
C1.13 Pollution Control			Y	Y	Y
C1.21 Seniors Housing			Y	Y	Y
C1.23 Eaves			Y	Y	Y
C6.1 Integrated Water Cycle Management		See discussion.	Y	Y	Y
C6.2 Natural Environment			Y	Y	Y
C6.3 Ecologically Sustainable Development, Safety and Social Inclusion			Y	Y	Y
C6.4 The Road System and Pedestrian and Cyclist Network		See discussion.	N	Y	N
C6.5 Utilities, Services and Infrastructure Provision			Y	Y	Y
C6.7 Landscape Area (Sector, Buffer Area or Development Site)		See discussion.	N	Y	N
C6.8 Residential Development Subdivision Principles		See discussion.	N	Y	Y
C6.9 Residential Land Subdivision Approval Requirements			Y	Y	Y
C6.10 Additional Specifications for development of Buffer Area 1a to 1m			Y	Y	Y
D16.1 Character as viewed from a public place		See discussion.	N	Y	Y
D16.4 Water Management for individual allotments			Y	Y	Y
D16.6 Front building lines	Macpherson St: 6.5m Garden St: 6.5m Lorikeet Grove: 3m	Macpherson St: 2.2m Garden St: 6.5m Lorikeet Grove: 1.9m	N	Y	Y
D16.7 Side and rear building lines	50m from creekline (Outer creekline)	50m from creekline (Outer creekline)	Y	Y	Y
D16.9 Solar Access		See discussion.	Y	Y	Y
D16.10 Private and Communal Open Space Areas		See discussion.	Y	Y	Y
D16.11 Form of construction including retaining walls, terracing and undercroft areas			Y	Y	Y
D16.12 Fences	No fencing to Warriewood Rd.	Fencing to Warriewood Rd and Macpherson St. See discussion.	N	Y	Y
D16.13 Building colours and materials	Dark & earthy tones	Elements of light coloured render	N	Y	Y
D16.14 Pets and Companion animals			Y	Y	Y

Issues marked with a (-) are not applicable to this application.
Issues marked with a (N) are discussed in detail, below.

12.0 DISCUSSION OF ISSUES - PLEP 2014 and P21 DCP

Building Height

- **Clause 4.3 (Height of Buildings) of PLEP 2014**
- **Clause 4.6 (Exceptions to development standards) of PLEP 2014**

The maximum height of a building at the site is limited to 10.5m, as shown on the Height of Buildings Map of PLEP 2014. However, pursuant to clause 4.3(2F) of PLEP 2014, development at the street frontage must not exceed 8.5m above existing ground levels. Elements of the proposed development exceed these maximum prescribed building heights, with one lift overrun and minor areas of the third storey roof reaching a maximum of 11.32m and one section of the Macpherson Street façade reaching a maximum height of 8.75m.

It is acknowledged that there is some ambiguity in relation to the wording of clause 4.3(2F) of PLEP 2014, as there is no definition of the term 'street frontage' and no indication as to how far into the site the reduced height limit is to be applied. This is currently being addressed by Council's Strategic Planning Department in Planning Proposal (PP0002/15), which seeks to amend clause 4.3(2F) of PLEP 2014 as follows:

Despite subclause (2), development on land identified as "Area 6" on the Height of Buildings Map must not exceed a building height of 8.5 metres for a minimum distance of 12.5 metres, as measured from the front boundary fronting Orchard Street, Macpherson Street, Warriewood Road, or Garden Street.

However, the new draft wording of this clause was exhibited for the first time in April 2017, and was not made available to the applicant prior to the lodgement of the subject application. Furthermore, the Planning Proposal is yet to be endorsed by the Department of Planning and Environment.

The maximum building heights prescribed by clause 4.3 of PLEP 2014 are development standards as defined by the Act, and as such, the provisions of clause 4.6 of PLEP 2014 can be applied. A submission made pursuant to clause 4.6 of PLEP 2014 has been provided by the applicant in this regard and the reasonableness of the requested variations is considered as follows:

Extent of variations:

With a maximum height of 11.32m, the proposed development exceeds the 10.5m maximum building height by 0.82m, representative of a 7.8% variation of the development standard. With a maximum height of 8.75m at the Macpherson Street frontage, the proposed development exceeds the 8.5m maximum building height by 0.25m, representative of a 2.94% variation of the development standard.

Pursuant to clause 4.6(2) of PLEP 2014, consent may be granted for development even though the development would contravene a development standard prescribed by an environmental planning instrument. However, in accordance with the provisions of clause 4.6(4) of PLEP 2014, consent can only be granted if Council is satisfied that the applicant's written submission on the matter is well founded and if the proposal is in the public's interest by being consistent with the objectives of the specific development standard and the relevant zoning.

The applicant has provided a written submission which puts forward that strict compliance with the building height development standards is unnecessary in the circumstances of this application, as the proposal is both consistent with the objectives of the building height development standard and the objectives of the R3 Medium Density zone.

Is compliance unreasonable or unnecessary in the circumstances of the case?

In accordance with the NSWLEC decision in *Wehbe v Pittwater Council*, one way in which strict compliance can be seen to be unreasonable or unnecessary is if it can be demonstrated that the objectives of the standard are otherwise achieved, despite non-compliance with the height limit. The objectives of the building height development standard are individually considered in respect of the proposed development, as follows;

- a. *to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*

Comment: The desired character of the Warriewood Valley Release Area is prescribed by clause A4.16 of P21 DCP, and aims to ensure that the locality is developed as a desirable urban community in accordance with the adopted planning strategy for the area.

Council's Land Release Team provided the following comment in this regard:

The subject site is known as Buffer area 11 in the Strategic Review. The recommendations of the Strategic Review as they relate to Buffer area 11 are... That the development will be in an urban form similar to the existing scale in Warriewood Valley at the time, meaning buildings are limited to 2 storeys fronting streets which already exist at the time when the Strategic Review was adopted (e.g. Warriewood Rd, Macpherson St, Garden St, Orchard St or Forest Rd frontages) and 3 storeys at the rear....

The proposed aged care facility on Lot 1 are 2 storeys along the Macpherson St and Warriewood Rd street frontages and 3 storeys at the rear along the creekline corridor, and is in accord with the Strategic Review.

More specifically, clause D16.1 of P21 DCP identifies the desired character of the development as viewed from a public place, which prescribes the need to minimise the bulk and scale of new buildings, and for development to present to the public domain, whilst also being appropriately screened/softened by landscaping. Generally speaking, the proposal is considered to achieve consistency with these requirements, subject to conditions of consent requiring the replacement of deciduous plantings.

- b. *to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*

Comment: The Warriewood Road façade of the development, being the façade that is situated in closest proximity to adjacent low density development, is limited in height to two-storeys and is well articulated, ensuring that the development compatible with the height and scale of nearby development. The minor areas of non-compliance with the height limit that occur on the Macpherson Street façade and in the centre of the upper floor roof, do not negate from consistency with this outcome.

- c. *to minimise any overshadowing of neighbouring properties,*

Comment: The proposal does not overshadow neighbouring properties.

- d. *to allow for the reasonable sharing of views,*

Comment: The proposal does not result in an unreasonable impact upon views.

- e. *to encourage buildings that are designed to respond sensitively to the natural topography,*

Comment: The proposed development is stepped down towards the creekline, and is appropriately elevated above the flood planning level and probable maximum flood level. The areas of non-compliance do not detract from the proposal's ability to achieve consistency with this outcome.

- f. *to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

Comment: The proposed development does not result in an adverse visual impact upon the natural environment, and subject to conditions of consent, the proposed landscaping will ensure that the natural environment is enhanced, with built form softened by vegetation.

Are there sufficient environmental planning grounds to justify the proposed contravention of the development standard?

The proposed development is seen to be generally consistent with the objectives of the building height development standard. However, in accordance with the NSWLEC decision in *Four2Five Pty Limited v Ashfield Council*, simply meeting the objectives of the development standard is no longer enough to justify contravention of a development standard; Council must be satisfied that there is a site specific reason to justify the contravention. The two areas of non-compliance nominated by the applicant are considered individually as follows:

10.5m limit – Upper floor roof

The overrun of the western most lift exceeds the 10.5m building height development standard by 0.82m, with additional minor non-compliance (up to 0.3m) associated with the pitched roof form, as shown in **Figure 2**. The applicant justifies the breach associated with the pitched roof by stating that whilst a flat roof could be incorporated to achieve strict compliance with the height limit, the pitched roof is more appropriate in the context of this specific site, appreciating that the site is on the edge of a land release area and the need to be compatible with the characteristic of existing low density residential development on the opposite side of Warriewood Road.



Figure 2 - Section through building with 10.5m height limit shown in red
Source: V-Arc

Whilst not identified by the applicant in the clause 4.6 submission, it is also noted that the breach in the upper roof form occurs at a point on the site where there is a natural depression/trench that runs from the street to the creekline. Without this site specific anomaly, the roof pitch would be fully compliant with the 10.5m building height development standard.

The objectives of clause 4.6 of PLEP 2014 are to provide an appropriate degree of flexibility in applying certain development standards to particular development and to achieve better planning outcomes for and from development by allowing flexibility in

particular circumstances.

In this regard, whilst a flat roof would achieve strict compliance with the building height development standard, a pitched roof is considered to be more sympathetic with the surrounding urban environment. Furthermore, the area of non-compliance is so minor that it will not be visually apparent when seen from the public domain. As such, requiring strict compliance with the building height development standard is seen to go against the intent of clause 4.6 of PLEP 2014, as requiring a flat roof would not achieve a better planning outcome.

However, the clause 4.6 submission provided by the applicant does not provide any justification for the protruding lift overrun, and the application as a whole is generally silent in this regard. Noting that clause D16.1 of P21 DCP specifically prescribes that lift overruns should be internally integrated into the design of the development, and in the absence of any specific justification for the proposed breach, this non-compliant element of the proposal is not supported and is not considered to contribute to a better planning outcome.

8.5m height limit – Macpherson Street façade

A portion of the Macpherson Street façade, circled in yellow on **Figure 3**, extends above the 8.5m height limit by 0.25m. At this point in the building, the Macpherson Street façade is setback at a minimum distance of 7.5m from the front property boundary, and the non-compliant element is setback a further 1.4m from the leading edge of the façade of the level below.



**Figure 3 – Macpherson Street (southern) elevation with 8.5m and 10.5m height limit shown in red
Source: V-Arc**

The applicant justifies the non-compliance by stating that the proposal achieves a balance between the need to step the development to follow the slope of the land, whilst also maintaining a two-storey perceivable height to the street. Noting that this is one of the few sites fronting either Macpherson Street or Warriewood Road with a cross fall, the minor 250mm maximum breach is considered to be reasonably warranted, particularly as the non-compliant element is setback from the leading façade.

Is the proposed development in the public interest?

A development is seen to be in the public's interest if it is consistent with the objectives of the development standard and the zone in which the particular development is carried out. The proposed development is seen to achieve consistency with the building height development standard, and the R3 Medium Density Residential Zone as follows:

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

Comment: The proposed development will provide for the housing needs of the localities aging population.

- b. *To provide a variety of housing types within a medium density residential environment.*

Comment: The proposed residential care facility will compliment surrounding housing types, which will ultimately include individual dwellings, residential flat buildings, attached housing, multiunit housing and other existing seniors housing developments.

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

Comment: This objective is not applicable in relation to the proposed seniors housing development.

- d. *To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.*

Comment: This objective is not applicable in relation to the proposed seniors housing development.

Is the applicant's submission well-founded?

The applicant has reasonably demonstrated that strict compliance with the building height development standard is unnecessary in the circumstances of this particular application, as the proposal will otherwise achieve consistency with the outcomes of the building height development standards.

The clause 4.6 submission also makes valid points with respect to the breaches associated with the upper level pitched roof form and the Macpherson Street façade, demonstrating that there are sufficient environmental planning grounds that warrant contravention of the building height development standard.

However, despite there being specific development controls requiring lift overruns to be internally integrated into the design of the roof, the application as a whole is silent with respect to the height breach associated with the lift overrun, and no reasoning has been provided as to why a lift without such a large overrun could be accommodated, or why the lift cannot be located further back into the building.

With the exception of the height non-compliance associated with the lift overrun, the clause 4.6 submission is considered to be well founded.

Concurrence:

In accordance with the direction from the Department of Planning and Environment in Planning Circular PS 09-003, the Secretary's concurrence has been assumed for the purpose of this application.

Conclusion:

A written submission has been provided by the applicant, and with the exception of the breach associated with the lift overrun, the submission is considered to be well founded as it reasonably demonstrates that strict compliance with the building height development standards is unnecessary in the circumstances of the application and that there is sufficient environmental planning grounds to justify contravention of the development standard. Furthermore, the application is seen to be in the public's interest, as the proposal is consistent with both the objectives of the building height development standard and the R3 Medium Density Residential Zone. As such, the consent authority can be satisfied that the proposal can be approved, in part, despite contravention of a development standard.

Upon review of the architectural plans, it is apparent that the proposed development exceeds the maximum building height development standards in other locations, which have not been addressed in the clause 4.6 submission provided to support the application. These areas are individually identified and addressed below:

Upper level balustrade along Macpherson Street frontage

As shown on **Figure 3**, a 25m length of the upper level balustrade on the Macpherson Street façade extends above the 8.5m height limit. This has been raised with the applicant who has recommended that the issue could be addressed by virtue of a condition of consent, requiring the balustrade to be setback at a minimum distance of 12m from the Macpherson Street property boundary.

Upper level pergolas

The proposal incorporates 3 pergolas on the upper level western roof deck, to be built to RL 16m AHD, resulting in a maximum height of 11.2m, 0.7m above the 10.5m height limit. However, upon review of the relevant floor levels, it is apparent that the pergolas are unnecessarily tall, extending 3.2m above the finished floor level of the deck. As such, a condition is recommended to reduce the height of the pergolas to RL 15.3m AHD, compliant with the 10.5m height limit that applies to the site.

Subject to conditions of consent to address these additional areas of non-compliance with the building height development standard, the proposal is able to be approved despite the lack of a clause 4.6 submission in this regard.

Three (3) submissions have been received in objection to the height of the development, specifically the number of stories proposed. One submission specifically objects to the development being greater than one storey in height, and comments that a single storey development would be more in keeping with the character of the locality. However, with a building height limit between 8.5m and 10.5m, it is apparent that development of a height greater than one storey is anticipated. Furthermore, the existing locality features a number of 2 and 3 storey developments, and as such, the height of the proposed development is consistent with the character of the locality in this regard.

The second submission objects to the incorporation of a third level in any building that fronts Warriewood Road or Macpherson Street, suggesting that the intent of the Warriewood Valley Strategic Review was to limit development fronting the street to two stories in height, with three storeys only permitted for separate buildings behind the lower buildings at the street frontage. As highlighted previously, Council's Land Release Team have advised that the design of the proposed development, which is limited to two storeys at the Warriewood Road and Macpherson Street facades, is consistent with the intent of the Strategic Review.

The third submission expresses a lack of support for any variation in height, as the bulk of the building is "gross". The minor areas of height non-compliance are not considered to attribute to excessive bulk and scale, and are relatively minor in nature.

Overall, the height of the development does not result in any unreasonable impacts upon the amenity of neighbouring or nearby properties, and is in keeping with the scale of development anticipated in the Warriewood Valley Land Release Locality.

Note: In acknowledgement of the ambiguity of the wording of clause 4.3(2F) of PLEP 2014, Council has taken the position that the clause only applies with respect to development fronting existing roads within the Land Release Locality, and not those proposed as part of the same application. This is in acknowledgement of the intent of the development standard, which seeks to limit development fronting the primary roads (such as Warriewood Road and Macpherson Street) to two storeys, which is now clearly expressed in the draft wording proposed by PP0002/15. It is for this reason that the 8.5m height limit is not seen to apply in relation to the frontage to the proposed Lorikeet Grove.

Warriewood Valley Release Area

- **Clause 6.1 (Warriewood Valley Release Area) of PLEP 2014**
- **Clause A1.7 (Considerations before consent is granted) of P21 DCP**

The application has been supported by plans demonstrating a conceptual layout for the resultant residential superlot proposed, featuring a combination of attached and detached houses, and a residential flat building in order to achieve 44 dwellings on the site. The conceptual layout is not proposed as part of the subject application, but has been provided to demonstrate to Council that the anticipated density prescribed by clause 6.1 of PLEP 2014 can be achieved. A submission has been received in objection to the lack of detail in this regard and the incorporation of “units of any sort on Warriewood Road”.

The level of detail provided by the applicant is sufficient to demonstrate consistency with the provisions of clause 6.1 of PLEP 2014, with further detail to be provided when any subsequent Development Application is lodged with Council. The incorporation of residential flat buildings is both permissible on the land and anticipated by the Strategic Review and the site specific provisions of P21 DCP.

Parking

- **Clause A1.7 (Considerations before consent is granted) of P21 DCP**
- **Clause B6.3 (Off-Street vehicle parking requirements) of P21 DCP**

A submission has been received in objection to the development and a lack of parking provided by the proposal. Clause B6.3 of P21 DCP is not applicable to development in the Warriewood Valley Land Release Area, and there are no specific off-street parking provisions within the Warriewood Valley specific controls. If the proposed aged care facility was located outside the Warriewood Valley Land Release Area, the provisions of clause B6.3 of P21 DCP would prescribe that the minimum number of parking spaces should be determined based upon RMS Guidelines for such development.

In the absence of a specific development control, the RMS Guidelines are relied upon in the subject assessment, to provide an indication of the amount of parking required in conjunction with the proposed development. The RMS Guidelines prescribe the following minimum parking requirements for the proposed development:

- 1 space per 10 beds (visitor), plus
- 1 space per 2 employees, plus
- 1 space per ambulance.

The RMS Guidelines also notes that *“the reference to employees indicates the number of staff on site at any one time during the peak operating period. It is advisable that suitable parking provision be made when shifts overlap. Visitor parking spaces must be clearly designated and readily accessible”*.

The proposed development has 130 beds and will have a maximum of 48 staff on site at any one time. Based on the minimum requirements of the RMS guidelines, the proposal should provide 13 visitor spaces, 24 employee spaces and 1 ambulance space, with excess employee spaces to accommodate any shift overlap. The proposed development provides 67 off-street car parking spaces, far exceeding the 38 spaces required by the RMS guidelines, whilst also providing offset for shift overlaps.

In accordance with the provisions of clause 48 of SEPP HSPD, the consent authority must not refuse a development based on the provision of parking for residents and visitors if the proposal provides at least:

- 1 parking space for each 10 beds in the residential care facility, and

- 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time; and
- 1 parking space suitable for an ambulance.

Subject to a condition to require 13 spaces to be clearly marked as visitor spaces, the proposal is consistent with both the RMS Guidelines and the standards prescribed by SEPP HSPD, and as such cannot and should not be refused in this regard.

Section 94 contributions

- **Clause 6.6 (Section 94 Contributions – Warriewood Valley) of P21 DCP**

Council's s94 Coordinator provided the following comments:

The creek corridor land is identified as Lot 3 on the subdivision plan titled 'Plan of Subdivision of Lots 27-29 Section C in DP 5464', Issue B, prepared by David Bromhead, dated 1 May 2017. The creek corridor land is slightly greater than the 25m corridor identified in the S94 Plan. This appears to be to ensure that a thin strip of private land is not created between the creek corridor and the Lorikeet Grove road reserve. This is considered appropriate however the reduction in the cash contribution for the creek land is limited to the value identified in the S94 Plan being \$221,239.

Comments from Council's Traffic Engineer have indicated that the application must include the construction of a roundabout at the proposed intersection of Warriewood Rd and Lorikeet Grove for traffic functionality and safety reasons. Works Item 2.5 in the traffic and transport strategy of the S94 Plan identifies a roundabout in this location and Item 5.7 identifies a bus bay and shelter. An offset in the cash contribution to the value identified in the Plan, being \$177,979, is provided for the construction of this roundabout. An offset of \$4,428 is provided for the indented bus bay as detailed in the S94 cost estimate sheets. I note that Council will still provide the bus shelter.

The DA also proposes to provide a connection to the pedestrian/cycleway approved on the adjacent property. This connection on the development site is identified in the S94 Plan as part of cycleway Item 2. The submitted Landscape Plans prepared by CDA Design Group dated August 2016 identifies the location of the proposed pedestrian/cycleway. The 2.5m wide path is shown within the creek corridor from the boundary of 29 Warriewood Rd to Macpherson Street. This is the location shown in the S94 Plan however commentary on the preferred location of the cycleway was provided by Council's Landscape Architect on 2 June. The path is to connect to the approved location on the boundary with 29 Warriewood Rd and be located within the southern road reserve of Lorikeet Grove continuing up to Warriewood Rd. The deviation from the location identified in the S94 Plan is supported. An offset in the cash contribution of \$58,968 for the construction of this section of the path has been provided as calculated from the S94 cycleway Item 2 cost sheet.

Road Layout

- **C6.4 (The Road System and Pedestrian and Cyclist Network) of P21 DCP**
- **C6.10 (Additional Specifications for development of Buffer Area 1a to 1m) of P21 DCP**

Clause C6.4 of P21 DCP requires all new and existing roads within the Warriewood Valley Release Area to be built and/or upgraded to comply with the provisions of the Roads Masterplan. The relevant works are considered individually as follows:

Warriewood Road

The site has a 223.7m wide frontage to Warriewood Road, which is a 'Collector Street', as defined by the Roads Masterplan. Specific works are required within the Warriewood Road public road reserve to achieve compliance in this regard, as follows:

- Half road reconstruction for the full length of the Warriewood Road street frontage,
- An indented bus bay to accommodate an articulated bus,
- A bus shelter (s94 works item)
- 2.1m wide shared path directly adjacent to the kerb,
- A roundabout at the intersection with Hill Street and Lorikeet Grove (s94 works item), and
- Indented on-street parking.

The applicant has provided engineering plans detailing the works to Warriewood Road. However, as proposed, the length of the indented bus bay, the location of the bus bay, the width of the shared path adjacent to the bus bay and the location of the bus shelter are inconsistent with the requirements of the Roads Masterplan. The engineering plans have been reviewed by Council's Traffic Engineer, who is satisfied that the proposal is acceptable, subject to conditions of consent requiring minor changes to the design of the indented bus bay.

It is noted that there is dispute between Council's Traffic Engineer and Council's Land Release Team regarding the timing of the Warriewood Road upgrade works. Council's Traffic Engineer has recommended conditions that require the entirety of the Warriewood Road street frontage to be undertaken in conjunction with the proposed seniors housing development, whereby Council's Land Release team suggest that it is reasonable to allow the works fronting the resultant residential superlot to be undertaken at a later date. The applicant was specifically asked to articulate their intentions with respect to the timing of such infrastructure works and no information was provided in this regard.

Excluding the transition area with the adjoining site to the north that is currently under construction and the extent of the roundabout works that are essential to the proposed development, the length of roadworks in dispute is approximately 90m. In acknowledgement of the other infrastructure works that are required within the road reserve such as the undergrounding of overhead wires, stormwater infrastructure and landscaping, the completion of the works in one go is considered to be the more economical, efficient and orderly approach to the development of the site. The completion of these works in one go will also minimise disruption to the general public, and provide pedestrian connectivity in the short term, even whilst Lot 2 is being developed. As such, the conditions to require the entirety of the works to be completed, as recommended by Council's Traffic Engineer, are supported in this regard.

Macpherson Street

Council is currently undertaking road works along the entirety of the Macpherson Street frontage, and as such, no works are required of the applicant in this regard.

Lorikeet Grove

The proposal involves the extension of Lorikeet Grove, to connect Warriewood Road to the approved location of Lorikeet Grove on the adjoining site to the north, consistent with the indicative playout plan demonstrated in clause C6.10 of P21 DCP. This road is proposed to be dedicated to Council and is required to be constructed to the design requirements for 'Local Streets', as defined by the Roads Masterplan. Conditions of consent have been provided by Council's Traffic Engineer in this regard.

A submission has been received in objection to the extension of Lorikeet Grove, stating that the 6m wide access road is insufficient to service the dwellings that will be accessed from it. Lorikeet Grove is proposed with a 7.5m road pavement, to provide for access for up to 200 dwellings, consistent with the relevant requirements of the Roads Masterplan.

Pedestrian Connectivity

- **C6.4 (The Road System and Pedestrian and Cyclist Network) of P21 DCP**
- **C6.10 (Additional Specifications for development of Buffer Area 1a to 1m) of P21 DCP**

Clause C6.4 of P21 DCP identifies that a pedestrian and cycle network is to be provided in accordance with the Landscape Masterplan. The location of the shared path is also shown on the indicative layout plan in clause C6.10 of P21 DCP. Whilst the proposed location of the shared path is consistent with both the Landscape Masterplan and the indicative layout of clause C6.10 of P21 DCP, the location is no longer suitable due to the design of the road works in Macpherson Street.

Ideally, the shared path should continue along the creekline corridor with a connection onto the elevated shared path within the Macpherson Street road reserve. However, at this stage, there is to be no connection to the elevated shared path along Macpherson Street and as such, the shared path should be redirected to Warriewood Road along the Lorikeet Grove road reserve. Conditions of consent are recommended in this regard.

Water Management & Landscaped Area

- **Clause C6.1 (Integrated Water Cycle Management) of P21 DCP**
- **Clause C6.7 (Landscape Area (Sector, Buffer Area or Development Site)) of P21 DCP**

Clause C6.7 of P21 DCP prescribes that sites that have a frontage to a creek, such as the subject site, are to have a minimum landscaped area of 35%. As the proposal seeks to create a large vacant residential superlot (Lot 2) and includes the dedication of creekline corridor land, compliance with this minimum requirement is easily achieved, with a landscaped area of 66%. It is noted that even if the residential superlot (Lot 2) is developed with the maximum permitted amount of hard surfaces anticipated by P21 DCP (being 75% of the resultant area), the overall site will remain consistent with the minimum landscaped area requirement of clause C6.7 of P21 DCP.

However, despite compliance in this regard, the development footprint of the residential superlot (Lot 2) must be restricted, as the water management solution for the residential superlot (Lot 2) forms part of the subject application, and the design of the system assumes the considerably lesser site coverage calculation, being 59% of the resultant site. If the development is not restricted in this regard, and the site is ultimately developed with a higher site coverage calculation, the proposed system will ultimately fail.

As such, a condition is recommended to require the creation of a covenant on Lot 2, limiting the development of the site to a maximum site coverage calculation of 59% and requiring consistency with the recommendations of the Water Management Report provided to support the subject application. A further condition is also recommended to require the creation of a restriction to ensure that the owner of Lot 2 maintains the water management system in accordance with the recommendations of the Water Management Report, with an easement on the title of Lot 1 to allow this to occur.

A submission has been received in objection to the lack of green space provided by the development. However, when considering the whole of the site and just the seniors housing development in isolation, the proposal meets and exceeds the qualitative and quantitative requirements of P21 DCP and SEPP HSPD.

Character

- **Clause D16.1 (Character as viewed from a public place) of P21 DCP**

Clause D16.1 of P21 DCP prescribes that plant equipment, air conditioning units and lift overruns are to be internally integrated into the design fabric of the built form of the building and in particular, the incorporation of air-conditioning units on the roof of the development is not encouraged. The proposal is non-compliant in this regard, with a large services platform and two lift overruns that protrude above the roof line, yet no justification for the non-compliance has been provided in the statement of environmental effects accompanying the application.

It is likely that the protruding elements will be visible from the public domain, particularly noting that the land rises to the east, with a number of streets and dwellings overlooking the subject site. For this reason, conditions of consent are recommended to remove the proposed service area and lift overruns, to ensure a consistent roof plane, free from visual clutter, consistent with the outcomes of the development control.

Front Setback

- **Clause D16.6 (Front Building Lines) of P21 DCP**

The site has frontages to both Macpherson Street and Warriewood Road, with a secondary street frontage to the yet to be created Lorikeet Grove. The three setbacks are considered individually, as follows:

Macpherson Street (6.5m minimum setback)

A minor portion of a ground floor terrace at the eastern end of the Macpherson Street facade extends approximately 300mm forward of the 6.5m minimum front setback. The terrace and balustrade contribution to the articulation of the southern façade, and of themselves, are not seen to attribute to any inconsistency with the outcomes of the control.

However, the wall below the terrace, being the exposed wall of the lower ground parking area, also extends particularly within the setback area and is generally unarticulated, and will be somewhat exposed until the proposed landscaping matures. To minimise the visual impact of the lower ground basement wall, a condition is recommended to setback the wall of the basement back 1m from the edge of the terrace above. This will emphasise the resultant cantilevered terrace and minimise the dominance of the blank wall of the lower ground carpark, whilst also providing additional space for landscaping to soften the built form.

The western end of the Macpherson Street setback also comprises a series of terraces that are situated at a minimum distance of 2.2m from the front boundary, 4.3m forward of the minimum front building line. The terraces are at various levels, both above and below existing ground levels; with the eastern most terrace excavated approximately 300mm below existing ground levels and the western most terrace extending 1.8m above existing ground level. The terraces are not communal areas but are rather accessed from individual rooms, and are of generous proportions when compared terraces and balconies associated with other rooms and even other communal areas of open space.

The setback area is considered to be more appropriately utilised for landscaping to screen the 80m wide façade, to ensure a spacious and attractive streetscape that is enhanced by tree planting, and anticipated by the outcomes of the front setback control. These sentiments are echoed by Council's Landscape Architect, who recommends that the depth of the larger terraces be reduced by 2m to provide additional deep soil area to support large canopy trees.

Whilst the terraces will remain non-compliant with the minimum setback prescribed by this control, with a minimum setback of 4.2m from the Macpherson Street front boundary, a generous landscaped buffer will nonetheless be achieved. Furthermore, the terraces will contribute to the articulation of the front façade, and provide opportunities for causal surveillance of the street.

Warriewood Road (6.5m minimum setback)

The bulk of the Warriewood Road façade is situated at a minimum setback of 10m from the front boundary, with an entrance portico extending forward with a minimum setback of 6.5m, consistent with the minimum front building line prescribed by clause D16.6 of P21 DCP.

Lorikeet Grove

The proposed development is situated at a minimum distance of 1.9m from the proposed northern boundary of Lot 1. As confirmed in the amended plan of subdivision produced in response to a request for additional information, this boundary will ultimately become a frontage to Lorikeet Grove; a public road reserve.

Unfortunately, the provisions of clause D16.6 of P21 DCP are silent with respect of the minimum setback for seniors housing developments fronting roads other than Warriewood Road, Garden Street and Macpherson Street. However, given the scale of the proposed development, it is considered reasonable to apply the minimum setbacks prescribed for residential flat buildings and multi dwelling housing, and as such, a minimum setback of 4.5m is required, with articulation elements permitted within 3m of the front setback. It is noted that even if the setback was considered to be a side setback, the minimum side building line prescribed by clause D16.7 of P21 DCP would be 3m.

As proposed, the development lacks any substantial landscaping to the north of the development and is heavily reliant upon landscaping within what will be the public road reserve. The amended landscape plans provided during the assessment process reduce the amount of landscaping within the limited setback area and further areas of hard surfaces have been introduced. Furthermore, given recent changes to the design of the Macpherson Street upgrade works and the flow on consequences to the location of the pedestrian and cycle path, the southern side of the Lorikeet Grove road reserve will now comprise a 2.5m wide shared path and as such, further hard surfaces are now required within the public road reserve with pedestrians moving in close proximity to the resultant built form.

As such, a greater setback is considered to be required to provide space for small canopy trees and to ensure consistency with the outcomes of clause D16.6 of P21 DCP, particularly the following:

- *The bulk and scale of the built form is minimised.*
- *To achieve a consistent built form alignment in the streetscape, which is spacious and attractive, enhanced by tree planting within the front setback.*
- *Vegetation and natural features of the site are retained and enhanced within the site design to screen the visual impact of the built form.*

This has been discussed with the applicant, who has since provided amended sketch plans demonstrating an increased setback to the Lorikeet Grove frontage and a reduction to the amount of hard surfaces within the setback area. The general setback of the northern façade has now been increased to 4m, with minor elements extending within 3m from the Lorikeet Grove front boundary. The design demonstrated in the amended sketch plans now provides adequate space for the incorporation of small canopy trees, which combined with street tree plantings, will act to soften the visual impact and minimise the bulk and scale of the proposed built form. As such, the outcomes of the front building line are seen to be reasonably achieved. Conditions of consent are recommended to require the Construction Certificate plans to be amended to reflect the concept shown on the amended sketch plans.

Fences

o Clause D16.12 (Fences) of P21 DCP

Clause D16.12 of P21 DCP prescribed that fencing is not permitted forwards of the building line, with the exception of secondary street frontages. Furthermore, clause D16.12 of P21 DCP emphasises that in all instances, vegetation is preferred over fencing as a means to delineate property boundaries. The proposed development incorporates fencing to Macpherson Street, Warriewood Road and Lorikeet Grove, inconsistent with the provisions of this development control.

The statement of environmental effects does not address this development control and no justification has been provided with respect of the areas of non-compliance. The application also provides little detail about the design and height of the proposed fencing, and as such, compliance with the design criteria of clause D16.12 of P21 DCP is also unable to be determined.

As all terrace areas fronting the public domain are all individually enclosed by balustrades (or are readily able to be enclosed), fencing along the front boundaries is largely superfluous, and the same outcome can be achieved with hedging plants and garden beds. As such, a condition is recommended to remove all fencing, with the exception of boundary fencing to separate the individual site to the north-east of the proposed seniors housing development.

Building Colours and Materials

• Clause D16.13 (Building colours and materials) of P21 DCP

The schedule of colours and materials provided to support the proposal indicates large expanses of “light render”, inconsistent with the requirement of clause D16.13 of P21 DCP for dark and earthy tones. A condition of consent is recommended to replace the “light render” with a render finished in a tone equivalent to or darker than Dulux/Colorbond “Windspray” or “Gully”.

13.0 CONCLUSION

The Northern Beaches has an aging population with an immediate need for residential care facilities. The proposal works towards addressing this demand, with 130 high care beds and associated facilities for residents and their guests.

The proposal will result in a large building on the site. However, the size and scale is somewhat anticipated by the zoning of the site, and the design has been resolved to a point where the resultant development will be compatible with surrounding built form. Furthermore, in consideration of the wider locality, the subject site is considered to be one of the more favourable sites for such development, whereby the type of development is both permissible pursuant to PLEP 2014 and located in accordance with the access requirements of SEPP HSPD. Subject to conditions requiring minor amendments and further information at certain stages of the development, the proposal is considered to achieve consistency with the outcomes and objectives of PLEP 2014, SEPP HSPD and P21 DCP, and is recommended for approval.

RECOMMENDATION

That the Sydney North Planning Panel endorse the proposed recommendation for the approval of Development Application N0611/16 for the construction of a residential aged care facility containing 130 sole occupancy high care rooms, subdivision and associated civil works and the extension of a public road at 23-27 Warriewood Road, Warriewood subject to the draft conditions of consent attached.

DRAFT DETERMINATION

**CONSENT NO: N0611/16
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS AMENDED)
NOTICE TO APPLICANT OF DETERMINATION OF A DEVELOPMENT APPLICATION**

Applicants Name and Address:

**J & G KNOWLES & ASSOCIATES PTY LTD
C/ URBIS PTY LTD
LEVEL 23, TOWER 2, DARLING PARK
201 SUSSEX STREET
SYDNEY NSW 2000**

Being the Applicant in respect of Development Application **N0611/16**

Pursuant to section 80(1) of the Act, notice is hereby given of the determination by Northern Beaches Council, as the consent authority, of Development Application **N0611/16** for:

The construction of a residential aged care facility containing 130 sole occupancy high care rooms, subdivision and associated civil works and the extension of a public road

At: **23, 25 & 27 Warriewood Road, Warriewood**

Decision:

The Development Application has been determined by the granting of consent based on information provided by the Applicant in support of the application, and in accordance with:

- **Architectural Plans, prepared by V-Arc, dated 11 May 2017:**
 - DA-020, revision L,
 - DA-100, revision M,
 - DA-101, revision N,
 - DA-102, revision M,
 - DA-103, revision L,
 - DA-104, revision L,
 - DA-200, revision M,
 - DA-201, revision L,
- **Sketch Plans, Lower Ground, Ground and 1st Floor, prepared by [unknown], dated 19 June 2017 (by Council);**
- **Schedule of Materials and Finishes, DA-500, revision L, prepared by V-Arc, dated 11 May 2017;**
- **Landscape Plans, TP01_A, TP02, TP03 and TP04, prepared by CDA Design Group Pty Ltd, dated 11 May 2017;**
- **Draft Plan of Subdivision, Issue B, prepared by David Bromhead, dated 1 May 2017;**
- **Vegetation Management Plan, prepared by Ecological Australia, dated 22 September 2016;**
- **Water Management Report, issue 5, prepared by S&G Consultants, dated 12 May 2017;**
- **Preliminary Site Investigation, reference E23159AA_Rev0, prepared by EI Australia, dated 9 November 2016;**
- **Geotechnical Investigation Report, reference 13787/1, prepared by Geotechnique Pty Ltd, dated 3 August 2016;**
- **Arboricultural Impact Assessment Report, reference 1772, prepared by Redgum Horticultural, dated 31 March 2016;**
- **Access Review Report, prepared by Morris Goding Accessibility Consulting, dated 6 September 2016;**

- **Stormwater Management Plans Sheets 1-10, SW100, SW200, SW201, SW202, SW203, SW204, SW500, SW501, SW600 and SW700, all revision A, all prepared by S&G Consultants, dated 4 November 2016;**
- **Civil Engineering Plans Sheets 1-22, C100, C110, C201, C202, C203, C204, C301, C302, C303, C304, C401, C402, C403, C404, C405, C406, C407, C501, C601, C602, C603 and C604, all revision B, all prepared by S&G Consultants, dated 12 May 2017;**
- **General Terms of Approval, issued by DPI Water, File No. 9057130, dated 15 February 2017;**

as amended in red (shown clouded) or as modified by any conditions of this consent.

The reason for the imposition of the attached conditions is to ensure that the development consented to is carried out in such a manner as to achieve the objectives of the Environmental Planning and Assessment Act 1979 (as amended), pursuant to section 5(a) of the Act, having regard to the relevant matters for consideration contained in section 79C of the Act and the Environmental Planning Instruments applying to the land, as well as section 80A of the Act which authorises the imposing of the consent conditions.

Endorsement of date of consent: **TBA**

Mark Ferguson
INTERIM GENERAL MANAGER

CONDITIONS OF APPROVAL

This consent is not an approval to commence building work. The works associated with this consent can only commence following the issue of the Construction Certificate.

Note: Persons having the benefit of development consent may appoint either a council or an accredited certifier as the principal certifying authority for the development or for the purpose of issuing certificates under Part 4A of the Environmental Planning and Assessment Act. When considering engaging an accredited certifier a person should contact the relevant accreditation body to ensure that the person is appropriately certified and authorised to act in respect of the development.

A. Prescribed Conditions:

1. All works are to be carried out in accordance with the requirements of the Building Code of Australia and the National Construction Code.
2. In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, there is to be such a contract in force.
3. Critical stage inspections are to be carried out in accordance with clause 162A of the *Environmental Planning & Assessment Regulation 2000*. To allow a Principal Certifying Authority or another certifying authority time to carry out critical stage inspections required by the Principal Certifying Authority, the principal contractor for the building site or the owner-builder must notify the Principal Certifying Authority at least 48 hours before building work is commenced and prior to further work being undertaken.
4. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a. showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.

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

5. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
6. The hours of construction are restricted to between the hours of 7.00am and 5.00pm Monday - Friday and 7.00am to 1.00pm on Saturdays. No works are to be carried out on Sundays or Public Holidays. Internal building work may be carried out at any time outside these hours, subject to noise emissions from the building or works not being audible at any adjoining boundary.

B. Matters to be incorporated into the development and maintained over the life of the development:

1. This approval/consent relates only to the new work nominated on the approved consent plans and does not approve or regularise any existing buildings or structures within the property boundaries or within Council's road reserve.
2. With the exception of any necessary infrastructure, this consent does not authorise any buildings on the proposed Lot 2.
3. Lot 2, any future lot within the land currently known as Lot 2, must be developed in a manner such that a minimum landscaped area (as defined by PLEP 2014) of 41% of the total site area of Lot 2 is retained in perpetuity.
4. If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Metropolitan Local Aboriginal Land Council (MLALC) and the Office of Environment and Heritage are to be notified.
5. In accordance with Council's Tree Preservation Order, all existing trees as indicated in the Survey Plan and/or approved Landscape Plan shall be retained. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.
6. No environmental weeds are to be planted on the site. Refer to Council's website for environmental weed lists.
7. Prior to the completion of works, all declared noxious weeds are to be removed/controlled in accordance with the *Noxious Weeds Act 1993*. Environmental weeds are to be removed and controlled. Refer to Council's website for noxious/environmental weed lists.
8. Any vegetation planted onsite outside the approved landscaping is to be consistent with:
 - a. Locally native species growing onsite and/or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and Native Plants for Your Garden guide available on Council's website.
 - b. Species listed in the flora and fauna assessment report referenced in this consent.

Any other plant species can only be used with written approval of Council.

9. The recommendations of the approved Geotechnical Investigation Report referenced in this consent are to be incorporated into the construction plans and implemented during construction.
10. Domestic pet animals are to be kept from entering wildlife habitat areas at all times. Dogs and cats are to be kept in an enclosed area or on a leash such that they cannot enter areas of bushland or foreshore, unrestrained, on the site or on surrounding properties or reserves. Ferrets and rabbits are to be kept in a locked hutch/run at all times.
11. Street address numbering can only be authorised by Council. Before proceeding to number each lot, approval of the numbers must be sought from Council's Planning and Assessment Business Unit.
12. No building materials or other materials are to be placed on riparian vegetation.
13. The adjustment and construction of all utilities, services and drainage systems, and the creation of appropriate easements are to be at the full cost of the developer, including:

- a. Electrical and telecommunications for the proposed lots, which are to be provided underground. The location of any trenching and if required, pad mounted substation(s), is to take into account future/proposed landscaping in the public domain.
 - b. Street lighting facilities are to be provided to streets proposed within the site and existing street frontages in accordance with the requirements of Ausgrid.
 - c. Existing overhead infrastructure within the Warriewood Road public road reserve is to be undergrounded for the full length of the site frontage.
14. The proposal is to be consistent with the General Terms of Approval, issued by the DPI Water. The General Terms of Approval (GTA) only apply to the controlled activities described in the plans and association documentation relating to N0611/16 and provided by Council (Site plan, map and/or survey). Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified DPI Water (formerly the NSW Office of Water) must be notified to determine if any variations to these GTA will be required.
- a. Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from DPI Water. Waterfront land for the purposes of the DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.
 - b. The consent holder must prepare or commission the preparation of:
 - i. Vegetation Management Plan
 - ii. Erosion and Sediment Control Plan
 - iii. Soil and Water Management Plan
 - c. All plans must be prepared by a suitably qualified person and submitted to the DPI Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with DPI Water's guidelines located at www.water.nsw.gov.au/Water-Licensing/Approvals.
 - i. Vegetation Management Plans
 - ii. Riparian Corridors
 - iii. Outlet Structures
 - d. The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to DPI Water.
 - e. The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by DPI Water.
 - f. The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the DPI Water.
 - g. The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to DPI Water as required.
 - h. The consent holder must provide a security deposit (bank guarantee or cash bond) – equal to the sum of the cost of complying with the obligations under any approval – to DPI Water as and when required.
 - i. The consent holder must not locate ramps, stairs, access way, cycle paths, pedestrian paths or any other non-vehicular form of access way in a riparian corridor other than in accordance with a plan approved by DPI Water.
 - j. The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by DPI Water.
 - k. The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan

- approved by DPI Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by DPI Water.
- l. The consent holder must stabilize drain discharge points to prevent erosion in accordance with a plan approved by DPI Water.
 - m. The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by DPI Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.
 - n. The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by DPI Water.
 - o. The consent holder must clearly mark (with stakes using GPS or peg out survey), protect and maintain a riparian corridor with a width of 20 metres measured horizontally landward from the highest bank of the river for the length of the site directly affected by the controlled activity in accordance with a plan approved by DPI Water.
15. Landscaping is to be implemented in accordance with the approved Landscape Plans referenced in this consent, as modified by any conditions of consent. This landscaping is to then be maintained for the life of the development.
16. The development is to be undertaken in accordance with the recommendations of the Arboricultural Impact Assessment Report, as referenced in this consent.
17. The Flood Planning Level is 5.38m AHD for the aged care facility development.
18. The Flood Planning Level for all residential development (not including Seniors Living) is 4.29m AHD.
19. The Probable Maximum Flood Level is 5.38m AHD
20. The minimum floor level for the aged care facility and residential dwellings is to be at or above the Flood Planning Level
21. The creekline corridor share path is to be located above the 20% AEP flood level.
22. All access and potential water entry points to a covered basement or bunded carpark facilities shall be at or above the Probable Maximum Flood level.
23. Storage of hazardous materials, electrical items, items of plant, equipment or stock and any other items which may be susceptible to water damage are to be located above the Flood Planning Level.
24. All new structural elements, new external finishes and new internal finishes located below the Flood Planning Level must be constructed using flood-compatible techniques and materials. Refer to *Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee, 2006*.
25. Where there is a difference in height between the natural ground level and the height of the Flood Planning Level the aged care facility is to be built incorporating a suspended floor system on open pier/pile footings designed and constructed to allow the clear passage of floodwaters and flood storage. To allow for the clear passage of flood waters and flood storage, 50-75% of the external perimeter and internal walls of underfloor areas of building, decks and balconies between the piers/pile footings must be 'open' to a height of the Flood Planning Level. Only 25% of the external and internal walls below the Flood Planning Level may be 'solid'. For 'open' portions of the walls, more than 50% of the surface area must have minimum openings of 100mm.

26. All new fencing, which includes boundary fencing, balcony balustrades and accessway balustrades must be constructed to allow for the free flow of flood waters — 50-75% of fencing must be 'open' to a height of the Flood Planning Level. Only 25-50% of the fencing below the Flood Planning Level may be 'solid'. For 'open' portions of fencing, more than 50% of the surface area must have minimum openings of 100mm.
27. All new electrical services, fixtures and fittings must be located above the Flood Planning Level. No electrical equipment or electrical motors are to be located below Flood Planning Level.
28. Any existing electrical equipment, services, fixtures and fixtures as well as any data cabling that must remain below the level of the Flood Planning Level, must be waterproofed so as to remain functional if submerged up to a level of the Flood Planning Level for up to 6 hours. Conduits must be graded so they are free draining if covered by floodwaters. Waterproofing could comprise electrical cut-off switches to turn off electricity supply when floodwaters are detected.
29. A current (and regularly updated) version of the SES Business FloodSafe Tool Kit available from <http://floodsafe.ses.org.au/floodsafe/businesstoolkit/> is to compiled and printed for the aged care facility and kept on the premises at all times. All employees are to be made aware of the Floodsafe Toolkit.
30. The approved Flood Risk Management Report, as referenced in this consent and as amended by any conditions of consent, shall apply for the life of the development.
31. Appropriate signage is to be displayed throughout the premises of the proposed development to alert staff and customers that the business premises is to be used as a shelter-in-place refuge during times of flood.
32. Shelter-in-place refuge is to provide:
 - a. Sufficient clean water for all occupants, and
 - b. Portable radio with spare batteries, and
 - c. Torch with spare batteries, and
 - d. first aid kit, and
 - e. emergency power, and
 - f. practical means of medical evacuation.
33. The garbage enclosures/refuse shall be provided and maintained in accordance with the following:
 - a. A separate room or an appropriately constructed area is to be provided for the storage of garbage and recyclables.
 - b. The walls of the enclosure shall be cement rendered and steel trowelled to a smooth, even surface.
 - c. The floor shall be of impervious material coved at the intersection with the walls, graded and drained to an approved floor waste within the room/enclosure.
 - d. Stormwater shall not enter the floor of the garbage enclosure such that the sewer system may be contaminated by rainwaters.
 - e. Garbage and recycling rooms shall be vented to the external air by natural or artificial means. The installation and operation of the mechanical ventilation system shall comply with AS 1668, Parts 1 & 2.
 - f. The room used for the storage and washing down of garbage and recycling receptacles shall be constructed of solid material (brick, concrete blocks, structural fibrous cement or similar homogeneous material) so as to prevent the formation of cavities which become possible harborages for insects and vermin. Framing in timber is not permitted.
 - g. The garbage and recycling room shall be made vermin proof.

- h. Hot and cold water hose cocks shall be located within a garbage enclosure or in close proximity to Council's satisfaction.
34. Security lighting is to be provided in accordance with the relevant provisions of AS4282 - *The control of the obtrusive effects of outdoor lighting*.
35. Air-conditioning units, hot water systems, and other mechanical equipment shall not be located on any roof or in locations that are visible from a public place.
36. The recommendations of the approved Vegetation Management Plan, as referenced in this consent, are to be adhered to for the life of the development.
37. The use of red, white or light colours is not permitted. For the avoidance of doubt, the "light render" shown on the approved schedule materials and finishes referenced in this consent is too light and must be replaced with a darker colour/tone.
38. All parking spaces are to be maintained free of obstruction and used solely for the parking of vehicles.
39. The water management facilities described in the approved Water Management Report, as referenced in this consent, shall be implemented and maintained for the life of the development in accordance with the detailed design, the Water Management Report and the manufacturer's specifications.
40. A contribution, referred to as a Developer Contribution Charge, for odour mitigation works at the Warriewood Wastewater Treatment Plant is required for this development. The Developer Contribution Charge is determined by Sydney Water and must be paid prior to the issuance of a Section 73 Certificate.
41. The proposed residential aged care facility may only be occupied by:
- a. seniors or people who have a disability,
 - b. people who live within the same household with seniors or people who have a disability,
 - c. staff employed to assist in the administration of and provision of services to housing provided under this Policy.
42. The proposed residential aged care facility is to maintain 130 high care single occupancy rooms.
43. No more than 48 staff shall be on duty at any one time.
44. A minimum of 13 spaces are to be clearly marked and dedicated to visitors of the facility.
45. Certification is to be provided to the Certifying Authority that the Construction Certificate drawings are consistent with the recommendations of the Access Review Report referenced in this consent.
46. The residential aged care facility must include a fire sprinkler system.

C. Matters to be satisfied prior to the issue of the Construction Certificate:

Note: All outstanding matters referred to in this section are to be submitted to the accredited certifier together. Incomplete Construction Certificate applications / details cannot be accepted.

1. Submission of construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of Building

Code of Australia and satisfy all conditions shown in Part B above, are to be submitted to the Principal Certifying Authority.

2. No works are to be carried out in Council's Road Reserve without the written approval of the Council.

Note: Separate approval is required for access driveways, paths, connections to underground services (stormwater, gas, sewer, electricity, etc:), and landscaping works within Council's Road Reserve.

4. Construction works approved by this consent must not commence until:
 - a. Construction Certificate has been issued by a Principal Certifying Authority;
 - b. A Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment, and
 - c. At least 2 days' notice, in writing has been given to Council of the intention to commence work.
5. In accordance with section 34 of the Building and Construction Industry Long Service Payments Act 1986, the applicant must pay a long service levy at the prescribed rate of 0.0035 of the total cost of the work to either the Long Service Payment Corporation or Council for any work costing \$25,000 or more.
6. The following is to be made for the provision of public infrastructure and services pursuant to Section 94 of the Environmental Planning and Assessment Act 1979:
 - A cash contribution of \$5,223,526.20 (subject to (a) below) is payable to Northern Beaches Council, and
 - Dedication of 4,281sqm of creekline corridor land in accordance with (b) below.
 - a. The monetary contribution will be adjusted at the time of payment in accordance with the latest Consumer Price Index as published quarterly by the Australian Bureau of Statistics as outlined in Council's Warriewood Valley Section 94 Contributions Plan (Amendment 16 Revision 2). The monetary contribution is to be paid prior to the issue of the first Construction Certificate.
 - b. The proponent shall dedicate to Council a total of 4,281 square metres of land identified as Lot 3 on the subdivision plan titled 'Plan of Subdivision of Lots 27-29 Section C in DP 5464' (Issue B, prepared by David Bromhead, dated 1 May 2017) for the provision of multi-functional creek line corridor facilities. The area of land to be dedicated is subject to a final Plan of Subdivision. The dedication is to take place by way of subdivision.
 - c. The proponent may negotiate with Council for the direct provision of facilities and services in lieu of the monetary contribution above (or any portion of that contribution) through a Material Public Benefit offer to Council. Any Material Public Benefit agreement between the applicant and Council must be finalised, formally signed and in place prior to payment being made.

The Warriewood Valley Section 94 Contributions Plan (Amendment 16 Revision 2) may be inspected at Northern Beaches Council's Mona Vale office, 1 Park Street Mona Vale or Council's website www.pittwater.nsw.gov.au .

7. An amended schedule of colours and finishes is to be provided to demonstrate the replacement of the use of "light render" with a mid-dark tone render, equivalent to or darker than Colorbond "Windspray" or "Gully". The roof is to be of a tone equivalent to or darker than Colorbond "Woodland Grey" or "Monument".
8. An Erosion and Sediment Management Plan is to be submitted prior to the issue of a Construction Certificate. Control over discharge of stormwater and containment of run-off

and pollutants leaving the site/premises shall be undertaken through the installation of erosion control devices such as catch drains, diversion drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams and sedimentation basins. Such plan is to be accompanied by a certification from an appropriately qualified person, that the plans/ details have been designed in accordance with the requirements of *Managing Urban Stormwater: Soils and Construction* (Landcom 2004). The plan is also to include specific details required to remove fine sediment and clay from vehicles leaving the site so as to maintain public roads in a clean condition.

9. A satisfactory Construction Traffic Management Plan (CTMP) prepared by a suitably qualified traffic consultant is to be submitted prior to the issue of a Construction Certificate. The CTMP is to detail:
 - a. Quantity of material to be transported;
 - b. Proposed truck movements per day;
 - c. Proposed hours of operation; and
 - d. Proposed traffic routes, noting that 3 tonne load limits apply to some roads within the local government area.
 - e. Location of on/off site parking for workers associated with construction for the whole period of construction.
10. A section 73 Compliance Certificate under the provisions of the Sydney Water Act, 1994 must be obtained from Sydney Water. A copy of any Notice of Requirements letter which may be issued by Sydney Water, is to be provided to the Private Certifying Authority with the Construction Certificate application.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

11. A suitably qualified professional is to provide certification that the Construction Certificate detail is consistent with the relevant provisions of the General Terms of Approval, issued by the DPI Water, as referenced in this consent.
12. Structural Engineering details relating to the approved development are to be submitted to the Accredited Certifier or Council prior to release of the Construction Certificate. Each plan/sheet is to be signed by a qualified practising Structural Engineer who is registered on the National Engineers Register (NER) maintained by Engineers Australia and has appropriate experience and competence in the related field.
13. Civil engineering detailed design for the proposed works are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Each plan/sheet is to be signed by a qualified practising Civil Engineer who is registered on the National Engineers Register (NER) maintained by Engineers Australia and has appropriate experience and competence in the related field. The design shall take regard of all of the requirements of the Water Management Specification (2001) and the approved Water Management Report, as referenced in this consent.
14. Prior to issue of the Construction Certificate, Form 2 of the *Geotechnical Risk Management Policy for Pittwater* (Appendix 5 of P21 DCP) is to be completed and submitted to the Principal Certifying Authority.

15. Applicants will be required to obtain a Section 139 Consent for Works on a Public Road Reserve issued by Council under the provisions of Section 138 of the *Roads Act 1993* for the design and construction of any works located on the road reserve including Access Driveways.
16. The approved Flood Risk Management Report, as referenced in this consent, is to be amended to accurately reflect to correct Probable Maximum Flood Level of 5.38m AHD.
17. An application is to be made to and approved by Council's Traffic Committee as the consent authority for:
 - a. All parking restrictions proposed on public roads and any traffic control facilities (to be certified by a Traffic Engineer).
18. Engineering plans and specifications for all roads, drainage and other civil engineering works required by this consent within the existing Warriewood Road public road reserve must be submitted and approved in writing by the Council prior to the issue of the relevant Construction Certificate. Payment of the Engineering Plan Assessment fee (in accordance with Council's adopted Fees and Charges) is required prior to Council releasing the approved engineering plans.
 - a. The works in relation to the full length of the Warriewood Road frontage of the development site and including the works in relation to the vehicular access to the Development are to be provided.
 - b. Kerb and gutter (vertical faced kerb only will be permitted) and associated stormwater drainage to drain the road pavement for the full length of the roadway of that part of Warriewood Road for the full frontage of the site subject to this consent. The face of kerb is to be located 10.9m from face of existing kerb on eastern side of Warriewood Road.
 - c. The intersection of Warriewood Road, with Lorikeet Grove and Hill Street, is to be designed as a roundabout to cater for safe movements by a waste collection vehicle minimum 9.7m in length, to accommodate the existing vehicle type (or greater Australian Standard vehicle class) for all turning movements. The roundabout design must also cater for safe movement of an articulated bus along Warriewood Road, and certified by a suitably qualified Traffic Engineer.
 - d. A pedestrian crossing point, comprised of kerbed ramps and a refuge, is to be accommodated in Warriewood Road at the southern side of the Hill Street/Warriewood Road/Lorikeet Grove roundabout. The pedestrian crossing point is to be incorporated to form part of the splitter island for the roundabout.
 - e. A footpath is to be provided between the pedestrian crossing point and the existing bus stop on the eastern side of Warriewood Road. The footpath is to be designed to safely retain existing street trees.
 - f. All traffic facilities in Warriewood Road are to be designed to cater for semi-trailers and articulated buses with no vehicle overhang of nature strips and a minimum 300mm as a clearance of all kerb and traffic islands, for all wheel paths.
 - g. Road shoulder and road pavement construction including pavement design and treatments in Warriewood Road for the full frontage of the site:
 - i. Half-road reconstruction between Macpherson Street and Lorikeet Grove,
 - ii. Construction of roundabout, traffic islands and associated works, including road pavement construction to enable safe operation of the facility,
 - iii. Half-road reconstruction between Lorikeet Grove and the northern boundary of the site

That the condition requiring half-road reconstruction of the existing road pavement of Warriewood Road for the full width of the site will be deemed to have been satisfied if a suitably qualified geotechnical engineer provides certification to Council that the existing road pavement satisfies the requirement of the WVRMP for the pavement to meet the ESA pavement design criteria of 2×10^6 .

- h. Indented bus bay in Warriewood Road in location specified by Sydney Buses. Turning path diagrams showing an articulated bus can stop wholly within the bus bay are to be provided.
- i. Footpath/cycleway (a minimum 2.1m wide) for the full length of the frontage in Warriewood Road at a level to match the kerb and gutter, is to be provided. The footpath/cycleway is to be wholly located on land dedicated as Public Road.
- j. Driveways to be constructed perpendicular to the road at all vehicle access points.
- k. Landscaping of the road reserve.
- l. That no OSD structure is to be located on any public road.
- m. Street lighting using Ausgrid standard lights/poles is to be provided in Warriewood Road with lighting of the pedestrian refuge and intersection to meet the relevant RMS and Australian Standards.
- n. Street name signs (complying to Council's requirements) to be provided in Warriewood Road at the intersection with Lorikeet Grove.
- o. The road design plans for Warriewood Road are to extend for a minimum distance of 30 metres along Warriewood Road beyond the side boundaries of both sides of the site to ensure the works will match into future roadworks in Warriewood Road in front of adjacent properties.

The plans required under this condition must meet the objectives and requirements of The Warriewood Valley Roads Masterplan; Austroads; AusSPEC and Pittwater 21 DCP, as relevant and achieve a road design and landscaped effect consistent with the Warriewood Valley Concept Masterplan (Public Domain), dated October 2007.

The engineering design and plans for road and drainage works must be certified as meeting the requirements outlined above by a suitably qualified and experienced Civil Engineer who is NPER accredited by Engineers Australia.

19. Engineering plans and specifications for all roads, drainage and other civil engineering works required by this consent within the Lorikeet Grove public road reserve must be submitted and approved in writing by the Council prior to the issue of the relevant Construction Certificate. Payment of the Engineering Plan Assessment fee (in accordance with Council's adopted Fees and Charges) is required prior to Council releasing the approved engineering plans.
- a. The works in relation to the full length of the Lorikeet Grove frontage of the development site and including the works in relation to the vehicular access to the Development are to be provided.
 - b. Kerb and gutter and associated stormwater drainage to drain the road pavement for the full length of the roadway of that part of Lorikeet Grove for the full frontage of the site subject to this consent (vertical faced kerb only will be permitted).
 - c. Road shoulder and road pavement construction including pavement design and treatments in Lorikeet Grove (ESA pavement design criteria of 6×10^5) for the full frontage of the site.
 - d. Pavement design and treatments.
 - e. Lorikeet Grove is to be designed to a sector entry road cross section.
 - f. All intersections with Lorikeet Grove are to be designed to cater for safe movements by to cater for safe movements by a waste collection vehicle minimum 9.7m in length, to accommodate the existing vehicle type (or greater Australian Standard vehicle class), and certified by a suitably qualified Traffic Engineer.
 - g. All traffic facilities in Lorikeet Grove to be designed to cater for safe movements by a waste collection vehicle minimum 9.7m in length, to accommodate the existing vehicle type (or greater Australian Standard vehicle class), with no vehicle overhang of nature strips and a minimum 300mm as a clearance of all kerb and traffic islands, for all wheel paths.
 - h. Turning path diagrams showing access to garage bin collection areas are to be provided.
 - i. Footpath 1.5 metres wide for the full length of the northern/eastern side of Lorikeet

- Grove at a level to match the kerb and gutter, is to be provided.
- j. The public footpath in Lorikeet Grove is to be wholly located on land dedicated as Public Road.
 - k. Share path 2.5 metres wide for the full length of the western/southern side of Lorikeet Grove, connecting to the share path approved at the adjoining site to the north and Warriewood Road.
 - l. Driveways to be constructed perpendicular to the road at all vehicle access points.
 - m. Landscaping of the road reserve.
 - n. That no OSD structure is to be located on any public road.
 - o. Street lighting using Ausgrid standard lights/poles is to be provided in Lorikeet Grove with lighting of the pedestrian refuge and intersection to meet the relevant RMS and Australian Standards.
 - p. Street name signs (complying to Council's requirements) to be provided in Lorikeet Grove at the intersection with the Community Title road.
 - q. The road design plans for Lorikeet Grove are to extend for a minimum distance of 30 metres along Lorikeet Grove beyond the northern side boundary of the site to ensure the works will match into roadworks currently underway along Lorikeet Grove to the north.

The plans required under this condition must meet the objectives and requirements of The Warriewood Valley Roads Masterplan; Austroads; AusSPEC and Pittwater 21 DCP, as relevant and achieve a road design and landscaped effect consistent with the Warriewood Valley Concept Masterplan (Public Domain), dated October 2007.

The engineering design and plans for road and drainage works must be certified as meeting the requirements outlined above by a suitably qualified and experienced Civil Engineer who is NPER accredited by Engineers Australia.

20. The engineering plans are to facilitate all utility services including overhead power supply and communication cables located in the adjacent road verge are to be placed and/or relocated underground for the total frontage of the development site to any public road at the full cost to the developer.
21. All plans are to be amended to delete the portion of the share path that extends between Lorikeet Grove and Macpherson Street. The share path is to follow the alignment of Lorikeet Grove to connect with Warriewood Road.
22. The approved Architectural Plans, and if necessary the approved Landscape Plans, are to be amended to demonstrate the following:
 - a. A 2m reduction to the depth of the three larger terraces along the southern façade of the development, as shown on the lower ground plan (DA-100, revision M, dated 11 May 2017) so that no terrace is situated within 4.2m from the Macpherson Street boundary;
 - b. The deletion of the portions of the lift overruns that protrude above the plane of the pitched roof, to be replaced with a continuation of the pitched roof in these areas;
 - c. The deletion of the services platform and surrounding screens from the upper most roof form, to be replaced with a continuation of the pitched roof in this area;
 - d. An increased setback between the balustrade on the southern façade of the first floor communal roof deck and the Macpherson Street boundary, so that no part of the balustrade surrounding the first floor communal roof deck is located within 12m of the Macpherson Street boundary. The area currently shown as lawn/deck within the 12m setback area is to become a non-trafficable roof;
 - e. The maximum height of the 3 pergolas on the first floor communal roof deck shall be limited to RL 15.3m AHD;
 - f. The deletion of all boundary fencing, with the exception of fencing to separate Lot 1 from the small portion of Lot 2 to the north-east;

- g. The external walls of the storage area in the south-east corner of the lower ground floor shall be set in 1m from the leading edge of the terrace above; and
- h. Consistency with the increased setbacks shown on the Sketch Plans, which demonstrate an increased setback to the northern façade on all three levels of the development, the relocation of the substation easement and the incorporation of 7 small canopy trees between the northern façade of the aged care facility and the Lorikeet Grove boundary.

23. The approved Landscape Plans, as referenced in this consent, are to be amended, as follows;

- a. Increase the number of large canopy trees between the aged care facility and the Macpherson Street boundary from 4 to 7;
- b. Increase the number of large canopy trees between the aged care facility and the Warriewood Road boundary from 4 to 7;
- c. 7 small-medium sized canopy trees are to be provided between the aged care facility and the Lorikeet Grove boundary, selected from the *Warriewood Valley Landscape Masterplan and Design Guidelines* plant list;
- d. Replace the 8 x large deciduous trees within the front setbacks of Warriewood Road and Macpherson Street with a mix of medium sized evergreen canopy trees, selected from the *Warriewood Valley Landscape Masterplan and Design Guidelines* plant list;
- e. With the exception of street trees, all trees are to have a minimum pot size of 45L at the time of planting. All shrubs and groundcovers are to have a minimum pot size of 200mm at the time of planting.
- f. Street trees are to be provided along the full Macpherson Street frontage, consisting of *Tristaniopsis laurina* with 200 litre pot sizes, planted at 7m centres;
- g. 3 street trees are to be provided within the Warriewood Road street frontage, between the proposed footpath and site boundary, consisting of *Lophostemon confertus* with 400 litre pot sizes;
- h. 9 street trees are to be provided along the southern side of Lorikeet Grove, consisting of 2 x *Waterhousia Floribunda* and 7 x *Tristaniopsis laurina* with 200 litre pot sizes, planted at 7m centres; and
- i. 10 street trees are to be provided along the western side of Lorikeet Grove, consisting of 3 x *Waterhousia Floribunda* and 7 x *Tristaniopsis laurina*, with 200 litre pot sizes, planted at 7m centres.

24. The Outer Creekline Corridor plans shall comprise the following activities and uses:

- a. creekline rehabilitation;
- b. bioretention systems and stormwater conveyance systems as identified in the Water Management Report (Martens & Associates, 2017, Version 4 or as updated)
- c. buffer vegetation planting;
- d. recreational amenity;
- e. maintained grassland with tree planting;
- f. viewing areas;
- g. protection of existing vegetation; and
- h. expansion of vegetation communities.

Structures that are permitted within the Outer creekline corridor must provide public benefits, including viewing platforms over water bodies, connecting footpaths, seating, lighting and refuse bins.

25. A Landscape Maintenance Plan is to be prepared and submitted to Council that outlines the technique and frequency of maintenance tasks during the establishment of the landscaping on the subject site. The Landscape Maintenance Plan is to be implemented for a period 24 months immediately following the completion of landscape and hardscape works on site. The Landscape Maintenance Plan is to incorporate maintenance and care of hardscape

elements (e.g. paving, retaining walls, secured pedestrian access paths), weeding, watering, mowing, consideration of other endemic species where plantings do not respond to the conditions as expected and a procedure for the replacement of failed plantings.

26. The approved Vegetation Management Plan, as referenced in this consent, is to be amended to provide quantifiable goals and strategies, identifying tree planting requirements for stands of *Casuarina glauca* and groves of *Eucalytus robusta*, with other native feature trees and indigenous understorey and ground covers comprising a minimum of 40 % of the total creekline corridor area. In areas of low use, native groundcovers should be used as an alternative to lawn.
27. A detailed site investigation (including sampling, testing and remediation if necessary) is to be prepared by a suitably qualified independent consultant in accordance with the recommendations in the Preliminary Site Investigation Report, as referenced in this consent, and is to be carried out as per EPA guidelines and the requirements of SEPP 55 - Remediation of Land. This report is to be provided to the Certifying Authority prior to the release of the Construction Certificate. The findings of the detailed site investigation should be reported in accordance with EPA (2001) to provide the data to confirm that the site is suitable for the proposed land uses, or (should contamination be identified) to inform a remedial action plan to make the site suitable for the proposed development.
28. A Hazardous Materials Survey of current structures present at the site is to be undertaken prior to the issuance of a Construction Certificate.
29. The Water Management Report is to be amended to clearly separate the ownership and maintenance responsibilities of the water management infrastructure between Lots 1 and 2. Both lots must be responsible for the water management infrastructure associated with their separate catchments. Separate s88B instruments are then to be prepared to highlight the maintenance requirements and responsibilities for the separate lots.

D. Matters to be satisfied prior to the commencement of works and maintained during the works:

Note: It is an offence to commence works prior to issue of a Construction Certificate.

1. A clearly legible *Site Management Sign* is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:
 - a. The builder's name, builder's telephone contact number both during work hours and after hours.
 - b. That no works are to be carried out in Council's Road Reserve without the written approval of the Council.
 - c. That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
 - d. That no skip bins or materials are to be stored on Council's Road Reserve.
 - e. That the contact number for Northern Beaches Council for permits is 9970 1111.
2. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
3. The site must be fenced throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.

4. Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must preserve and protect the building from damage and, if necessary, underpin and support the adjoining building in an approved manner.
5. Where site fill material is necessary, fill materials must:
 - a. be Excavated Natural Material (ENM) only, as approved under the NSW Environment Protection Authority Resource Recovery Exemption (2014);
 - b. be free of slag, hazardous, contaminated, putrescibles, toxic or radioactive excavated material and soil, rock or similar material. Putrescibles and non-putrescibles solid waste (including demolition material) is not permitted.
 - c. Be the subject of testing and monitoring throughout the course of the works, and is to consist of clean fill inert material only, that is, non-contaminated excavated material and soil, and suitable material. Putrescible and non-putrescible solid waste (including demolition material) is not permitted. All imported fill must be sourced locally where practicable to reduce traffic movements.
 - d. Be deposited and works carried out in strict compliance with *Managing Urban Stormwater: Soils and Construction* (Landcom 2004).
6. Prior to commencement of any works, temporary sedimentation and erosion controls in accordance with the Erosion and Sediment Management Plan required by this consent are to be installed to eliminate the discharge of sediment from the site and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction including:
 - a. A site fence and silt and sediment control fence is to be erected and maintained during the course of works along any street boundary and park/reserve boundary to the site.
 - b. Sediment is not to leave the site or enter areas of riparian vegetation, and the appropriate sediment fencing is to be installed.
 - c. The capacity and effectiveness of runoff and erosion control measures shall be maintained at all times to conform to the specifications and standards quoted and to any conditions of approval of those measures.
 - d. Measures shall be applied, to the satisfaction of council, to prevent site vehicles tracking sediment and other pollutants onto any sealed roads serving the development.
 - e. Measures required in permits issued under the Water Management Act shall be implemented. This Act requires that people obtain approval for any proposed works within 40 metres of a watercourse. Permits should be sought from the NSW Office of Water.
 - f. Approved runoff and erosion controls shall be installed before site vegetation is cleared (other than that associated with the construction of the controls). These shall be as shown on an ESCP approved by council.
 - g. Topsoil shall be stripped only from approved areas and stockpiled for re-use during site rehabilitation and landscaping.
 - h. Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage line or easement, waters, footpath, kerb or road surface and shall have measures in place to prevent the movement of such materials onto the areas mentioned. All stockpiled materials are to be retained within the property boundaries.
 - i. Uncontaminated runoff shall be intercepted up-site and diverted around all disturbed areas and other areas likely to be disturbed. Diversion works shall be adequately stabilised.
 - j. Runoff detention and sediment interception measures shall be applied to the land. These measures will reduce flow velocities and prevent topsoil, sand, aggregate, or other sediment escaping from the site or entering any downstream drainage easements or waters.

7. Personnel with appropriate training, or demonstrated knowledge and experience in erosion and sediment control shall be responsible for supervising the installation and maintenance of approved erosion and sediment control measures – during and after construction and until the site has been restored to the satisfaction of council.
8. Waste materials generated through demolition, excavation and construction works are to be minimised by re-use on site, recycling or where re-use or recycling is not practical, disposal at an appropriate authorised waste facility.
9. All waste dockets and receipts regarding demolition, excavation and construction waste are to be retained on site to confirm which facility received the material for recycling or disposal.
10. No works are to be carried out in Council's Road Reserve without the written approval of the Council.
11. All construction in the public road reserve must be undertaken by a Council authorised contractor. Alternatively, prior to the commencement of works, Council must be notified of each contractor undertaking works within the public road reserve. Each contractor must be able to provide/demonstrate each of the following;
 - Incorporated company/ business name and ABN;
 - Public Liability Insurance;
 - Professional Indemnity Insurance;
 - Workers Compensation Insurance;
 - Accident/ Injury Insurance Cover;
 - Other Insurances;
 - Company Licences, Registrations, Permits, Certificates etc.;
 - WorkCover Construction Industry General Induction Card;
 - WHS Documents;
 - Employee qualifications – Certificates, Licences etc.;
 - Contractor Services;
 - Client Services; and
 - WHSMS Self Evaluation.
12. A Road Opening Permit, issued by Council, must be obtained for any road openings, or excavation within Council's Road Reserve associated with the development on the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
13. No skip bins or materials are to be stored on Council's Road Reserve.
14. The Construction Traffic Management Plan (CTMP) is to be implemented, throughout the construction phase of the development on site, including site preparation or demolition.
15. No native canopy trees are to be removed from Council's Road Reserve without prior approval from Council.
16. A stamped copy of the approved plans is to be kept on the site at all times, during construction.
17. The public footways and roadways adjacent to the site are to be maintained in a safe condition at all times during the construction phase. Pedestrian access is to be maintained at all times during the construction phase.

18. Toilet facilities are to be provided in a location which will not detrimentally affect the amenity of any adjoining residents at or in the vicinity of the work site during the duration of the development.
19. Prior to commencement of works, at least three photographs of the road reserve and footpath area adjoining the site, one front-on and one from each side of the property, are to be submitted to Northern Beaches Council with the notification of commencement of works, showing the condition of the street trees and road reserve. The photographs must be dated, and accompanied by a statement that they are a true and accurate representation of the scene depicted.
20. As there are existing trees to be retained within 5 metres of proposed development works, all recommendations as outlined in the Arboricultural Impact Assessment Report referenced in this consent are to be complied with, particularly with regard to the following:
 - a. Works, erection/demolition of structures, excavation or changes to soil levels within 5 metres of existing trees are not permitted unless part of the development as approved, and the storage of spoil, building materials, soil or the driving and parking of any vehicle or machinery within 5 metres of the trunk of a tree to be retained is not permitted;
 - b. Where specified, tree guards are to be provided to all trees as indicated in the report, and are to be installed prior to the commencement of any work on the site. Tree guard materials and dimensions are specified in the arborist report;
 - c. All works within 5 metres of existing trees including demolition, excavation, civil works, fencing and the like must be carried out by hand and under the supervision of an experienced and suitably qualified arborist. Should roots larger than 50mm be encountered all excavation works are to cease immediately and a qualified Arborist is to advise on the impacts of the roots removal on the tree's survival and report to the Principal Certifying Authority prior to works recommencing. If tree roots are present a pier and beam method of footing construction is to be adopted so as to bridge/span any identified lateral roots.
 - d. Signage is to be erected advising all contractors and visitors to the site that no works or storage are to take place within the dripline of existing trees.
 - e. Any changes or alterations made to the tree management recommendations as outlined by the arborist report due to the discovery of new structural roots or underground services during development works must be reported to the Principal Certifying Authority prior to works recommencing.

E. Matters to be satisfied prior to the issue of Occupation Certificate:

Note: It is an offence to occupy the building or part thereof to which this consent relates prior to the issue of an Occupation Certificate.

Note: Prior to the issue of an Occupation Certificate the accredited certifier is to ensure that Council's assets, including road, kerb and gutter and drainage facilities adjacent or near to the site have not been damaged as a result of the works. Where such damage has occurred, it is to be repaired to Council's written satisfaction prior to the issue of an Occupation Certificate or suitable arrangements put in place to affect those repairs at a future date to Council's written satisfaction. Should this process not be followed, Council will pursue action against the principal accredited certifier in relation to the recovery of costs to affect such works.

1. An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work approved by this Development Consent.
2. A copy of any Section 73 Compliance Certificate issued under the provisions of the *Sydney Water Act, 1994*, is to be forwarded to Council or the Private Certifying Authority with the Occupation Certificate.

3. Prior to issue of the Occupation Certificate, Form 3 of the *Geotechnical Risk Management Policy* (Appendix 5 of P21 DCP) is to be completed and submitted to the Principal Certifying Authority.
4. A qualified landscape architect/designer is to certify that all landscaping works have been undertaken prior to the issuing of any Occupation Certificate. The landscape architect/designer is to confirm that all plants are arranged and spaced in a manner that is consistent with the approved Landscape Plan, as amended by any conditions of consent.
5. The stormwater drainage system must be constructed and completed in accordance with the approved design and relevant Australian Standards, and certification from an experienced Water/Environmental/Civil Engineer who is NPER accredited by the Institution of Engineers, Australia is to be provided in this regard.
6. A plan showing pipe locations and diameters of the stormwater drainage system, together with certification by a Licensed Plumber or qualified practicing Civil Engineer that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards must be provided.
7. Prior to the issue of an Occupation Certificate, a certificate prepared by a Registered Surveyor shall be provided to the Private Certifying Authority stating that the finished floor and surface levels have been constructed to be at or above the Flood Planning Level:
8. Prior to issuing an occupation certificate the structural stability of the structure of the aged care facility must be verified by a suitably qualified structural engineer up to the level of the Probable Maximum Flood (PMF). This structural assessment must consider impacts of flood depths and flow velocities from lateral flood flow, buoyancy, suction effects, and debris load impact for all floods up the PMF.
9. The structural assessment must also confirm that the shelter-in-place refuge complies with the Building Code of Australia.
10. A suitably qualified professional is to provide certification that the drainage/water management system has been constructed/installed in accordance with the relevant plans, documentation and the National Construction Code, and that:
 - a. The construction of the water management system has been supervised and certified by person(s) with appropriate experience and expertise in Civil/Environmental Engineering/Environmental Science, Hydrology and Hydraulics, and must be NER registered members of the Institution of Engineers (Australia), and
 - b. Works associated with the water management system have been completed in accordance with the approved Water Management Report and all associated plans and detailed design and have been installed to the manufacturers' specification (where applicable). Certification is to be provided in accordance with the *Warriewood Valley Water Management Specification (February 2001)*.
11. A certificate submitted by a Chartered Professional Engineer confirming to the satisfaction of the accredited certifier that the works in the public road reserve comply with Council requirements is to be provided to Council. The applicant is required to obtain written confirmation that all works in the road reserve have been completed in accordance with the conditions of the Roadworks Permit from Council, and a copy of such confirmation is to accompany the Occupation Certificate Application.
12. Prior to issue of an Occupation Certificate photographic evidence of the condition of the street trees and road reserve and area adjoining the site after the completion of all construction, must be submitted to the accredited certifier showing that no damage has been done and if damage has been done that it has been fully remediated. The photographs shall be accompanied by a statement that no damage has been done (or

where damage has been remediated that Council has approved that work). In this regard, Council's written agreement that all restorations have been completed satisfactorily must be obtained prior to the issue of any Occupation Certificate.

13. Evidence is to be provided to confirm the engagement of a suitably qualified landscape architect who will be responsible for the implementation of the Landscape Maintenance Plan for a minimum period of 24 months. The landscape architect is to confirm that they will undertake to:
 - a. visit the site immediately following completion of the landscaping and hardscape works on site (those other than in the creekline corridor); and
 - b. visit the site on a three (3) monthly basis for a period of 24 months to ensure implementation of the Landscape Maintenance Plan.

E. Matters to be satisfied prior to the issue of Subdivision Certificate:

1. Prior to the issue of a Subdivision Certificate, all infrastructure works including roads, water management facilities, landscaping and services are to be completed and other relevant conditions in this consent are to be satisfied.
2. The following documents and payments are to be submitted to Council in a single package to ensure the efficient release of the relevant Subdivision Certificate:
 - a. A copy of the Section 73 Compliance Certificate issued under the provisions of the *Sydney Water Act, 1994*;
 - b. Copies of the Subdivision Plans (original plus 6 copies);
 - c. The Certifying Authority's Compliance Certificates. Each component of the works as outlined above are to be certified as being carried out in accordance with the relevant plans and documentation by suitably qualified professional persons as outlined in this development consent. Certification is to include:
 - i. Certification to Council, by an experienced civil engineer who is listed on the National Engineers Register (NER) maintained by Engineers Australia, that all roads, drainage and other civil engineering works have been carried out and completed in accordance with the engineering plans and specifications required under the Conditions of this Consent.
 - ii. All appropriate infrastructure as outlined in the Conditions of Consent and approved Construction Certificate plans and specifications has been provided to service the proposed residential lots including roads, drainage facilities, landscaping, water management facilities, civil engineering works and services.
 - iii. the construction of the water management system has been supervised and certified by person(s) with appropriate experience and expertise in Civil/Environmental Engineering / Environmental Science, Hydrology and Hydraulics, and must be NER registered members of the Institution of Engineers (Australia).
 - iv. Works associated with the water management system have been completed in accordance with the approved Water Management Report referenced in this consent and have been installed to the manufacturers' specification (where applicable). Certification is to be provided in accordance with the *Warriewood Valley Water Management Specification (February 2001)*;
 - d. Form 3 of the *Geotechnical Risk Management Policy* (Appendix 5 of P21 DCP) and a report from a suitably qualified geotechnical engineer certifying that the lots are geotechnically stable and will provide an appropriate platform for any subsequent building on the development site;
 - e. Security deposit of a value to be determined by Council is to be made to ensure rectification of any defects during the maintenance period.
 - f. Creation of appropriate easements where public and/or private (interallotment) drainage lines pass through private property.

- g. Creation of appropriate easements where service lines or drainage lines pass through private property other than the lot which they benefit.
 - h. Creation of an appropriate easement on Lot 1 in relation to the water management system associated with Lot 2, to allow the owners of Lot 2 to undertake any necessary maintenance.
 - i. Notification to Council, certified by an appropriately qualified Water Engineer, of properties to be notated under Section 149(2) Planning Certificates and specifying the applicable flood categories as set out in the *Flood Risk Management Policy for Development in Pittwater* (Pittwater 21 DCP Appendix 8).
 - j. A Certificate by a qualified Engineer or Architect confirming that all driveways have been constructed in accordance with the approved plans and Council's Pittwater 21 DCP.
 - k. Works-As-Executed plans for all structures or facilities which will be dedicated to Council or which are located within drainage easements or which will require ongoing maintenance by Council. The plans are to be in paper and electronic format (dwg or dxf file) and comprise at least the following:
 - i. Boundary layout;
 - ii. Kerb and gutter, road pavement, footpaths, traffic devices, retaining walls;
 - iii. Signage (including type and wording), line marking;
 - iv. Easements, survey numbers and marks, reduced levels and co-ordinates;
 - v. Stormwater drainage locations, pipe sizes and types, pit sizes and types, subsoil drains;
 - vi. Water quality devices, creek line corridors (where relevant);
 - vii. Significant landscaping.
 - l. Evidence of a restriction pursuant to Section 88E of the Conveyancing Act 1919 on Lot 1, limiting the occupants of the residential care facility to seniors or people who have a disability, as defined by SEPP HSPD.
 - m. Creation of a s88B instrument on the title of Lot 1, specifying the maintenance requirements and responsibilities of the owners of the development for all water management facilities related to the development site including the rainwater tanks, stormwater quality improvement devices (bioretention basins), stormwater filters/pit baskets, the onsite detention basins, and private stormwater drainage, in accordance with manufacturer's specifications and the amended Water Management Report required as a condition of this consent;
 - n. Creation of a s88B instrument on the title of Lot 2, specifying the maintenance requirements and responsibilities of the owners of the development for all water management facilities related to the development site including the rainwater tanks, stormwater quality improvement devices (bioretention basins), stormwater filters/pit baskets, the onsite detention basins, and private stormwater drainage, in accordance with manufacturer's specifications and the amended Water Management Report required as a condition of this consent;
 - o. Creation of a s88B instrument to restrict the development of Lot 2 so that a minimum landscaped area (as defined by PLEP 2014) of 41% of the total site area of Lot 2 is maintained in perpetuity and that the development of Lot 2 is strictly in accordance with the recommendations of the approved Water Management Report, referenced in this consent and as amended by conditions.
 - p. Evidence of payment of the required s94 contribution.
 - q. Evidence of the intent to dedicate 4,281m² (identified as Lot 3 on the draft plan of subdivision referenced in this consent) of creekline corridor to Council.
3. A suitably qualified professional is to provide certification that the as-built development is consistent with the relevant provisions of the General Terms of Approval, issued by the DPI Water, as referenced in this consent.
 4. A qualified landscape architect/designer is to certify that all landscaping works have been undertaken prior to the issuing of any Subdivision Certificate. The landscape architect/designer is to confirm that all plants are arranged and spaced in a manner that is consistent with the approved Landscape Plan, as amended by any conditions of consent.

5. Damage to Council's assets adjacent or near to the site that has occurred as a result of this development, including road, kerb and gutter and drainage facilities, are to be repaired to Council's written satisfaction prior to the issue of a Subdivision Certificate. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction is to occur at the full cost to the developer. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the accredited certifier with the Subdivision Certificate application.
6. A maintenance period is to apply to all civil engineering works to be dedicated to Council or which will require ongoing maintenance by Council. The maintenance period will apply for six (6) months after the issue of the Subdivision Certificate. In that period the applicant will be liable for any part of the works which fail to perform in the manner required by the relevant certifications, or would reasonably be expected under the design conditions.
7. Evidence is to be provided to confirm the engagement of a suitably qualified ecologist who will be responsible for the implementation of the approved Vegetation Management Plan, as referenced in this consent, for a minimum period of 5 years. The ecologist is to confirm that they comply with the recommendations of the approved Vegetation Management Plan and will undertake to:
 - a. visit the site immediately following completion of the works in the creekline corridor on site; and
 - b. visit the site on a three (3) monthly basis for a period of 5 years to ensure implementation of the Vegetation Management Plan.

F. Advice:

1. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (on-the-spot fines) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.
2. The applicant is also advised to contact the various supply and utility authorities, i.e. Sydney Water, Sydney Electricity, Telstra etc. to enquire whether there are any underground utility services within the proposed excavation area.
3. It is the Project Managers responsibility to ensure that all of the Component Certificates/certification issued during the course of the project are lodged with the Principal Certifying Authority. Failure to comply with the conditions of approval or lodge the Component Certificates/certification will prevent the Principal Certifying Authority issuing an Occupation Certificate.
4. In accordance with Section 95(1) of the Act, this consent will lapse if the development, the subject of this consent, is not physically commenced within 5 years after the date from which this consent operates.
5. To ascertain the date upon which the determination becomes effective and operates, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979* (as amended).
6. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Waters sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to the web site at www.sydneywater.com.au then see Building Developing and Plumbing then Quick Check, or telephone 13 20 92.

7. Portions of the site may be liable to flooding from the 1% AEP and the PMF (Probable Maximum Flood) and effective precautions should be taken by the owner(s) and/or occupier(s) of the building to reduce any potential risk to personal safety and to minimise any property damage to the structure, its fixtures and contents.