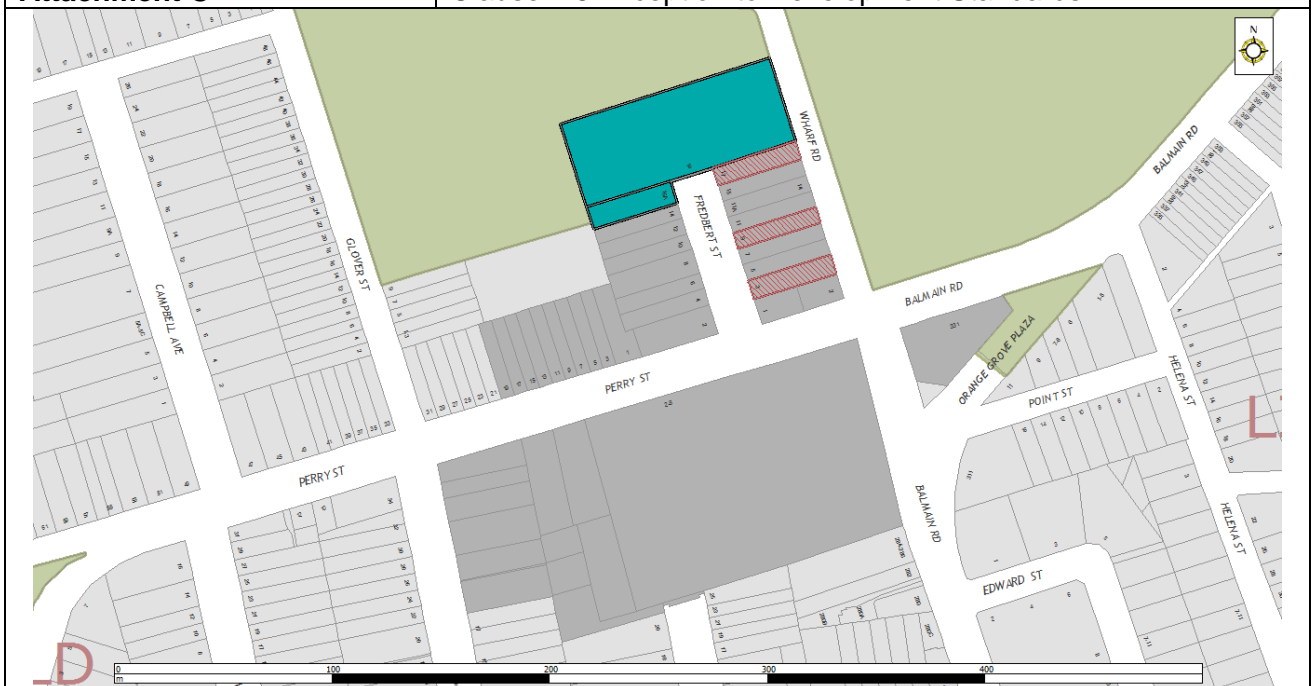




# INNER WEST COUNCIL

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	D/2018/98
<b>Address</b>	Aldersgate Nursing Home, 16 Fredbert Street, LILYFIELD NSW 2040
<b>Proposal</b>	Alterations and additions to existing aged care building, and associated works, including car parking changes, new decks, landscaping and tree removal.
<b>Date of Lodgement</b>	27 February 2018
<b>Applicant</b>	The Uniting Church In Australia
<b>Owner</b>	The Uniting Church In Australia Property Trust NSW
<b>Number of Submissions</b>	Objections from three properties
<b>Value of works</b>	\$6,380,000
<b>Reason for determination at Planning Panel</b>	Clause 4.6 variation exceeds officer delegation
<b>Main Issues</b>	Parking
<b>Recommendation</b>	Deferred Commencement Consent
<b>Attachment A</b>	Recommended conditions of consent
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Clause 4.6 Exception to Development Standards



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

## 1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to an existing aged care building, and associated works, including car parking changes, new decks, landscaping and tree removal at Aldersgate Nursing Home, 16 Fredbert Street, Lilyfield. The application was notified to surrounding properties and submissions from 3 properties were received.

The main issues that have arisen from the application include:

- Parking

The application has been amended as part of the assessment process and the amended design provides adequate parking. The application is therefore recommended for approval.

## 2. Proposal

This development application seeks consent for alterations and additions to the existing Uniting Aldersgate residential care facility. Specifically, the development comprises:

- Additions to the main entrance from Fredbert Street to provide a new foyer, entry steps, drop-off zone, and entrance lift (providing access to all levels from the forecourt);
- Alterations and additions to Level 1 (including removal of partitions and new service cores and slabs) to provide a multi-purpose activity room, café (for use by residents, staff and visitors), hair dresser, male and female bathrooms, chaplain's office, chapel, staff administration areas, consultant rooms, external terrace, and back-of-house uses (pantry store, cold room, waste room, cleaner store, and communications room);
- Alterations and additions to Levels 2 and 3 to group resident rooms into four independent 'households' (each with new front entrances, domestic kitchens, dining, sitting and living areas, family rooms, domestic laundries, support services, ancillary amenities, clinical room, storage areas, household gardens, staff bathroom facilities, unisex accessible WC, dirty utility and cleaner store, and other back-of-house areas);
- Internal reconfigurations and alterations to Level 2 that result in 45x resident beds (22x in the proposed 'Opal Household' and 23x in the proposed 'Topaz Household');
- Internal reconfigurations and alterations to Level 3 to provide 49x resident beds (24x in the proposed 'Ivory Household' and 25x in the proposed 'Sapphire Household');
- External built extensions to the facility to accommodate two new sitting rooms;
- 3x new at-grade car parking spaces outside the front entrance (including one accessible space) and 3x new car parking spaces with frontage to Wharf Road;
- Construction of two new fire stairs and new lift in order to achieve circulation requirements and compliance with the National Construction Code (NCC);
- Landscaping works (including new paving, shrub planting, groundcovers and seating);
- Upgrades and refurbishments to external terraces and resident outdoor areas; and
- Other ancillary works such as earthworks, site services, and stormwater detention.
- The alterations and additions will reduce the number of resident beds at the facility from 102 (as existing) to 94 (as proposed).

## 3. Site Description

The site has an irregular-shaped configuration with a total area of 4,484.7 sqm as measured to survey (being 4,048.4 sqm for Lot 1 in DP 1131674 and 436.3 sqm for Lot 9 in DP3928). It has a north-facing (rear) boundary of 101.2 metres to the University of Tasmania (Rozelle

Campus) car park and access road, an east-facing (side) boundary of 40 metres to Wharf Road, a west-facing (side) boundary of 51 metres to the University, and a staggered south-facing (front) boundary of 101.2 metres to Nos 14 and 17 Fredbert Street and the street itself.

The development site contains the existing Uniting residential care facility and an adjoining single-storey residential dwelling located at No 16 Fredbert Street (also owned by Uniting). The proposal only involves minor landscaping works to the rear of No 16 Fredbert Street, and thus the development site generally relates to the land on which the care facility is located.

The existing residential care facility is a three-storey brick building that provides 24-hour professional nursing and personal care and support for frail aged and those living with dementia and cognitive impairment. It offers a range of services including high care and palliative care for up to 102 residents. There is a range of room types available, including single/double/triple rooms with shared ensuites, single rooms with private ensuites, and dementia specific households. The facility also provides communal living areas and in-house support services.

Level 1 contains a covered car parking area, activities room, a laundry room, a staff room, male and female bathroom facilities, storage areas, and other back-of-house uses. The eastern portion of this level is only partially excavated and generally undeveloped.

Level 2 (existing ground level at Fredbert Street) contains the main entrance/foyer, resident bedrooms, dining/living room, storage areas, kitchen servery, offices, male and female bathroom amenities, treatment rooms, common areas, outdoor paved courtyards, and other ancillary uses. Level 3 has a similar layout and range of accommodation, services, and uses.



Figure1: Aerial photo with site identified





Figure 2: Fredbert Street frontage

## 4. Background

### 4(a) Site history

The following section outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

#### Subject Site

Application	Proposal	Decision & Date
	<b>Under the address 16 Fredbert St</b>	
BA 6014	Conversion into Nurses Quarters	Approved 1.12.64
BA 15278	Covered area between buildings	Approved 29.8.78
CDCP/2014/83	Installation of an Automatic Fire Suppression System throughout the existing building.	Approved by private certifier 7.7.14
CDCPMO/2015/17	Installation of an Automatic Fire Suppression System throughout the existing building (modification to CDCP/2014/83) .	Approved by private certifier 2.2.15
	<b>Under the address 1 Wharf Rd</b>	
BA 4879	Alterations/Additions	Approved 21.11.61
BA 5570	2 Additional wards	Approved 23.2.65
BA 5682	4 Additional wards and toilet accommodation	Approved 10.9.63
BA 5973	7 Additional wards	Approved 21.4.64
BA 6073	Additional Hospital Ward	Approved 8.9.64
BA 7302	Additions to hospital	Approved 6.9.66
BA 7684	Double Open Car Port	Approved 9.8.66
BA 10211	Extensions - Lounge	Approved 30.11.71
BA 12230	2 additional wards	Approved 16.10.73
BA 87/222	Additions to ambulance bay	Approved 28.6.88
BA/1992/421	New Nursing Home	Approved 30.7.92

**Surrounding properties**

Application	Proposal	Decision & Date
D/2010/149	12 Fredbert Addition to an existing dwelling including ground floor additions, spa, deck, privacy screens, and landscaping.	Approved 06-May-2010

**4(b) Application history**

The following table outlines the relevant history of the subject application.

Date	Discussion / Letter/ Additional Information
26 June 2018	Request for addition information letter sent
10 July 2018	Additional information provided including amended design to provide more parking, amended parking report.
20 July 2018	Amended Arborist report provided.
21 September 2018	Additional stormwater information provided.

**5. Assessment**

The following is a summary of the assessment of the application in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979.

**5(a) Environmental Planning Instruments**

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
- Leichhardt Local Environmental Plan 2013

The following provides further discussion of the relevant issues:

**5(a)(i) State Environmental Planning Policy No 55—Remediation of Land**

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. LDCP 2013 provides controls and guidelines for remediation works.

The site has an established history of occupation and use as a nursing home and residential care facility. There is no evidence that the site is, or might be, contaminated or associated with activities that may generate contamination, other than typical building materials likely to be found in older buildings (e.g. lead paint and bonded asbestos).

Given the nature of the proposed works where that there are no substantial excavation works, it is considered it is satisfactory subject to standard conditions recommended in Attachment A of the report.

**5(a)(ii) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017**

The proposal seeks to remove a significant tree - *Cinnamomum camphora* (Camphor laurel) and also 4x *Cupressus sempervirens* (Italian Cypress) and 1x *Gleditsia tricanthos* (Honey locust). This is discussed in more detail in a later section of the report. The removal of these trees are supported subject to a significant replacement tree.

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

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 commenced on 31 March 2004. The policy applies to land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, but only if dwellings, residential flat buildings or hospitals and special uses are permitted or the land is being used for the purpose of a registered club are permissible.

The subject site is located within the R1 General Residential zone under Leichhardt LEP 2013. Pursuant to the Leichhardt LEP 2013, the site is zoned R1 (General Residential) within which "dwelling-houses" and "residential flat buildings" are permitted with consent. The land is zoned primarily for an urban purpose and the Seniors Housing SEPP applies to the site.

The aims of the policy seek the provision of housing (including residential care facilities) that will:

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

Pursuant to Clauses 11, the proposed development is defined as a “residential care facility”, being:

*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 compliance with the provisions of Senior Housing SEPP is summarised into the table below:

Seniors Housing SEPP Criteria	Comment
<p><b>Clause 26 – Location and Access to Facilities</b></p> <p>(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to:</p> <ul style="list-style-type: none"> <li>(a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and</li> <li>(b) community services and recreation facilities, and</li> <li>(c) the practice of a general medical practitioner.</li> </ul> <p>(2) Access complies with this clause if:</p> <ul style="list-style-type: none"> <li>(a) the facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site</li> </ul>	<p>Clause 26(2)(b) sets out the relevant requirements of Clause 26.</p> <p>Bus stops either side of Balmain Road are approximately 180 metres walking distance from the site. The stops are served by regular State Transit Sydney services (Route Nos 440, 444, 445, and L37) that travel to the CBD, Lilyfield, Rozelle, Balmain, Campsie, Bondi Junction, Canterbury, Haberfield, and other surrounding suburbs.</p> <p>Facilities within Lilyfield and Rozelle include supermarkets, shops, banks, community</p>

<p>of the proposed development that is a distance accessible by means of a suitable access pathway and the overall average gradient for the pathway is no more than 1:14, although the following gradients along the pathway are also acceptable:</p> <ul style="list-style-type: none"> <li>i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,</li> <li>ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,</li> <li>iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time, or</li> </ul> <p>(b) in the case of a proposed development on land in a local government area within the Greater Sydney (Greater Capital City Statistical Area)—there is a public transport service available to the residents who will occupy the proposed development:</p> <ul style="list-style-type: none"> <li>i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and</li> <li>ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and</li> <li>iii) that is available both to and from the proposed development at least once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday (both days inclusive), and the gradient along the pathway from the site to the public transport services (and from the public transport services to the facilities and services referred to in subclause (1)) complies with subclause (3), or</li> </ul> <p>(c) in the case of a proposed development on land in a local government area that is not within the Greater Sydney (Greater Capital City Statistical Area)—there is a transport service available to the residents who will occupy the proposed development:</p> <ul style="list-style-type: none"> <li>i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and</li> <li>ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and</li> <li>iii) that is available both to and from the proposed development during daylight hours at least once each day from Monday to Friday (both days inclusive), and the gradient along the pathway from the site to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) complies with subclause (3).</li> </ul> <p>(3) For the purposes of subclause (2) (b) and (c), the overall average gradient along a pathway from the site of the proposed development to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) is to be no more than 1:14, although the following gradients along the pathway are also acceptable:</p> <ul style="list-style-type: none"> <li>i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,</li> <li>ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,</li> <li>iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time.</li> </ul>	<p>uses, health and medical services, and the other public amenities.</p> <p>Accordingly, the facilities and services referred to in Clause 26(1) will be available to the future residents of the facility.</p> <p>Notwithstanding the above, residents of the facility are likely to be frail and aged and will not be in a position to (independently) make trips by public transport or access nearby local amenities or shops given their physical or mental conditions.</p> <p>Residents are likely to move to Uniting Aldersgate because they are in need of care. Part of this care is assistance and support services provided at the facility.</p> <p>The proposal provides an accessible path of travel from the car parking bays to the front entry at compliant gradients.</p> <p><b>Compliance - Yes</b></p>
<p><b>Clause 27 – Bush Fire Prone Land</b>  A consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land identified on a bush fire prone land map unless the consent authority is satisfied that the development complies with the requirements of the document titled Planning for Bush Fire Protection, prepared by the NSW Rural Fire Service in cooperation with the Department of Planning, dated December 2006.</p>	<p>The development site is not located on bushfire prone land.</p> <p><b>Compliance – Not applicable</b></p>

<p><b>Clause 28 – Water and Sewer</b> A consent authority must not consent to development made pursuant to this Chapter unless 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.</p>	<p>Upon completion of the alterations and additions, the facility will be connected to the reticulated water and sewerage systems that currently serve the site. <b>Compliance – Yes</b></p>
<p><b>Clause 30 – Site Analysis</b> A consent authority must not consent to a development application made pursuant to this Chapter 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.</p>	<p>A satisfactory site analysis had been provided. <b>Compliance – Yes</b></p>
<p><b>Clause 32 – Design of Residential Development</b> A consent authority must not consent to a development application unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2.</p>	<p>Refer to sections below.</p>
<p><b>Clause 33 – Neighbourhood Amenity and Streetscape</b> The proposed development should: (a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and</p>	<p>The proposed alterations and additions complement the form and architectural design of the existing facility which itself reflects the medium density character of the local area. Façades treatment associated with the external alterations will provide visual interest and reduce perceived scale. <b>Compliance – Yes</b></p>
<p>(b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and</p>	<p>The site does not contain any heritage items and is not located within a heritage conservation area. <b>Compliance – Not applicable</b></p>
<p>(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</p>	<p>The development has been designed to maintain amenity to adjoining development (being the University of Tasmania and residential dwellings along Fredbert Street). The external built additions achieve setbacks to the side and rear boundaries that have minimal impact on overshadowing and perceived bulk of the building.  The proposal does not alter the existing building height which is itself entirely compatible with the prevailing medium density residential environment. <b>Compliance – Yes</b></p>
<p>(d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and</p>	<p>The proposal does not extend the building beyond the existing front setback to Fredbert Street. From the perspective of Fredbert Street, the proposal will continue to present a two storey building form with a shallow recess accommodating the new foyer. <b>Compliance – Yes</b></p>
<p>(e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and</p>	<p>The proposal incorporates an extensive landscaping approach in sympathy with the character of the surrounding environment. <b>Compliance – Yes</b></p>
<p>(f) retain, wherever reasonable, major existing trees, and</p>	<p>An amended Arboricultural Impact Assessment was requested and provided (prepared by Warrick Varley and Mathew Reed, dated July 2018).  It is considered that the required changes to the proposed plans to allow for the retention of T14 (<i>Cinnamomum camphora</i>, Camphor laurel) would be too onerous on the applicant in this instance.  Removal of T14 is supported subject to adequate compensatory replanting (The</p>



	<p>minimum pot size at time of planting will be equivalent to 1000 litre (min) containerised stock.) in addition to the proposed trees and vegetation in the submitted Landscape plan. <b>Compliance – Yes, subject to conditions</b></p>
<p>(g) be designed so that no building is constructed in a riparian zone.</p>	<p>The development site is not within a riparian zone. <b>Compliance – Yes</b></p>
<p><b>Clause 34 – Visual and Acoustic Privacy</b> The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by: (a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and (b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</p>	<p>In regards to potential visual privacy impacts to adjoining residential properties, all proposed windows will located more than 9 metres away from the windows or private open spaces of adjoining residential properties.</p> <p>The proposed new decks at level 2 on the northern elevation will not have any sightlines into residential properties. The new decks at level 2 on the south-western and south-eastern portions of the site are both proposed to have a finished floor level at RL32.58. The south-western deck is located approximately 11 metres away from the adjoining property at 14 Fredbert Street and therefore there are no sightlines within 9 metres of the deck and is considered to be satisfactory. The south-eastern deck is located in an area where the existing ground levels are between RL32.29 to RL32.56 and therefore is considered to be of a form that will result in acceptable impacts. <b>Compliance – Yes</b></p>
<p><b>Clause 35 – Solar Access and Design for Climate</b> 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.</p>	<p>The proposed alterations and additions are generally contained within the existing building envelope. The additions that falls outside the building envelope are located a long distance away from the private open spaces and windows of adjoining properties, therefore it is considered that the external additions to the building will have negligible shadow impacts on adjoining land. Shadows cast will be generally confined within the site. The proposal delivers adequate natural daylight and solar access to resident bedrooms, living areas, and outdoor areas. <b>Compliance – Yes</b></p>
<p><b>Clause 36 – Stormwater</b> 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.</p>	<p>The development incorporates stormwater infrastructure (including on-site stormwater detention) as detailed in the Stormwater Management Report and Plans (provided under separate cover). <b>Compliance – Yes</b></p>
<p><b>Clause 37 – Crime prevention</b> 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</p>	<p>The development incorporates principles of 'Crime Prevention Through Environmental Design'.  The safety and security of residents and staff within the facility is paramount and is reflected in the alterations and additions to the fullest extent.  Adequate surveillance around the building will be achieved through effective lighting, clear identification signage, landscaping and lack of dark spaces. The proposal will allow</p>

<p>door.</p>	<p>passive surveillance from the living areas, communal areas, and outdoor courtyards. <b>Compliance – Yes</b></p>
<p><b>Clause 38 – Accessibility</b> 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.</p>	<p>The site has obvious and safe pedestrian links to bus stops.  All common rooms and facilities on all floors are accessible by pathways or lifts which comply with BCA requirements. <b>Compliance – Yes</b></p>
<p><b>Clause 39 – Waste Management</b> The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.</p>	<p>Waste arising from construction works and ongoing day-to-day operations of the facility will be managed using appropriate waste management practices. <b>Compliance – Yes</b></p>
<p><b>Clause 40 – Development standards - minimum sizes and building height</b>  <b>(1) General</b> A consent authority must not consent to a development application made pursuant to this Chapter unless the development complies with the standards specified in this clause. <b>(2) Site size</b> The size of the site must be at least 1,000 square metres. <b>(3) Site frontage</b> The site frontage must be at least 20 metres wide measured at the building line. <b>(4) Height in zones where residential flat buildings are not permitted</b> Clause 40(4) relates to development that is proposed in a residential zone where residential flat buildings are not permitted</p>	<p>The total sites area is 4.484.7 sqm. The eastern boundary of the site fronting Wharf Road and has a frontage of approximately 40 metres. This comprises 4,048.4 sqm for Lot 1 in DP 1131674 and 436.3 sqm for Lot 9 in DP3928.  The southern boundary of site is approximately 101 metres in length and the section of the site that adjoins Fredbert Street has a width of approximately 20.5 metres.  As residential flat buildings are permitted within the R1 General Residential zoning, therefore the height development standard is not applicable.  <b>Compliance – Yes</b></p>
<p><b>Clause 48 – Standards that cannot be used to refuse development consent for residential care facilities</b>  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: (a) <b>building height:</b> if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys), or (b) <b>density and scale:</b> if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less, (c) <b>landscaped area:</b> if a minimum of 25 square metres of landscaped area per residential care facility bed is provided, (d) <b>parking for residents and visitors:</b> if at least the following is provided: i) 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and ii) 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and iii) 1 parking space suitable for an ambulance.</p>	<p>The external additions building (being the extension to the main entrance and the two new ground floor sitting areas) will not exceed 8 metres in height.  The floor space ratio (FSR) of the development will be 1.02:1. As the proposed FSR is over 1:1, the proposal could be refused. The proposed FSR is considered to be acceptable under the provisions of Leichhardt LEP 2013, refer to section below in relation to the assessment of the Clause 4.6 exception for Floor Space Ratio.  The proposal provides 980 sqm of landscaped area for 94 beds, equating to 10.4 sqm landscaped area per bed. This does not comply with Clause 48(c). However, the proposal has extensive landscaping, including permitter planting and outdoor courtyards. External areas are connected to indoor living areas and provide specific purpose built safe areas for residents' outdoor use. It is noted that the existing landscaped area is 905 sqm, equating to 8.8 sqm per bed. In this regard, the proposal increases the ratio of landscape area to beds.  The proposal provides 25 car parking spaces for staff and visitors, plus one ambulance space. Landscape and parking matters are discussed in more detail below.</p>

### Landscape Area

As noted above, the proposal does not comply with the Seniors Housing SEPP minimum requirement for 25 landscaped area per residential care facility bed pursuant to Clause 48(c).

For reference, 'landscape area' is defined in the Seniors Housing SEPP is as follows:-

*"landscaped area means that part of the site area that is not occupied by any building and includes so much of that part as is used or to be used for rainwater tanks, swimming pools or open-air recreation facilities, but does not include so much of that part as is used or to be used for driveways or parking areas."*

The above definition is in effect a ground level open space standard. The SEPP provides no guidelines or requirements for common open space areas for residential care facilities; it is possible to meet the landscaped area requirement providing minimal common open space.

The landscaping requirement applies to all situations. It can be expected that opportunities for providing the required amount of landscaping would be more achievable in lower density situations than medium density environments such as the subject site and locality.

The development provisions reflect the objectives of the Seniors Housing SEPP that are:-

#### **"2 Aims of Policy**

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

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

*(2) These aims will be achieved by:*

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

The SEPP provides standards for residential care facilities at Clauses 4, 10, 24, 25, 26, 27, 28, 30, 33-38, 40 and 41. The proposed development is fully compliant with these standards. The SEPP is accompanied "A guide for councils and applicants Housing for seniors or people with a disability" issued by the Department of Infrastructure and Planning. This guide provides the following advice on the interpretation of landscaping (our **emphasis** added):

*"A potential conflict arises in relation to landscaping. The re-development of many existing residential care facilities or even new residential care facilities in established areas will be on sites that would not allow much land to be set aside for landscaping while achieving a 1:1 FSR. The most important external issues for these sites are the impacts on streetscape and neighbours. High amenity for residents can be achieved within the building without meeting a high landscape area standard. The clause 70 landscape standard of 25m<sup>2</sup> per bed, i.e. a standard that cannot be used to refuse consent, **is not a minimum standard per se, that must be met. It is possible and reasonable for consent to be given to facilities that have less than 25m<sup>2</sup> per bed landscaped area if they take other issue such as streetscape and impact on neighbours into account.**"*

The above interpretation is very clear in that Clause 48(c) is not minimum standard.

The adequacy of the provision of landscaped area should be seen in the context of the underlying objectives of the requirement. The SEPP does not provide any objectives for this requirement. However, the underlying object or purpose of the requirement is taken to be:

- to provide adequate amenity for residents and their guests;
- to control bulk; and
- to maintain setbacks.

It is also considered reasonable to give consideration to the desired future character of the area as reflected in the controls and standards for land zoned R1 (General Residential). The site's landscaping and outdoor and indoor spaces have been developed specifically for the client group that will be occupying the residential care facility. In comparable facilities operated by Uniting the average age of occupants is 85 years and over and the majority of the occupants will have some form of disability and impairment (such as dementia).

In this regard, the proposal incorporates extensive landscaping and open space that focuses on quality and appropriateness. The proposed open space features include:

- purpose-built north-facing external balcony to Level 3 accessed from dining areas;
- landscaped household gardens at Level 2;
- new outdoor timber decked areas;
- internal courtyards set within the Level 2 households; and
- generous ground level landscaping and vegetation around site perimeters.

The proposal achieves a total of 980 sqm landscaped area; this represents 22% of Lot 1 in Deposited Plan 1131674 (the main lot on which the residential care facility is located). The proposal adequately addresses the

provisions of Clause 48 of the SEPP because:

- Clause 48 is not a development standard and its application as a control is incorrect on statutory interpretation and contextual grounds (Council could refuse the application on the basis of its landscaping on merit grounds however an alleged noncompliance with the 25sqm per bed standard in clause 48 is not in itself a suitable ground for refusal. The SEPP makes it clear that developments that do not comply can be approved.
- consistent with the guidelines issued by Department of Infrastructure and Planning in May 2004, strict compliance with the requirement for 25 square metres of landscaped area is not required, particularly in cases such as the subject proposal where adequate landscaped setbacks will minimise impacts on the streetscape and neighbours.
- careful consideration has been given to the provision of indoor and external spaces to meet the recreational and open space requirements of the occupants of the care facility. It is considered that adequate space is provided for these purposes.
- in the context of the medium density residential zoning of the locality, a reduced amount of landscaped area per resident bed is appropriate.

In conclusion, the above assessment details the general compliance of the proposal with the relevant aims, objectives, and development standards of the Seniors Housing SEPP.

**Compliance – No, but is acceptable as it complies with the Landscaped Area Development standard under Leichhardt LEP 2013.**

### **Car Parking**

The off-street parking requirements applicable to the development proposal are specified in the *SEPP (Housing for Seniors or People with a Disability) 2004* document in the following terms:

#### **Division 2 Residential Care Facilities**

##### **48 Standards that cannot be used to refuse development consent for residential care facilities**

(2) A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of a development for the purpose of a residential care facility on any of the following grounds:

**(d) Parking for residents and visitors:** if at least the following is provided:

- (i) 1 car space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and
- (ii) 1 car 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.

Application of the above *SEPP* car parking requirements under Item (d) to the 94 beds (including 45 dementia beds) and 28 staff outlined in the development proposal yields an off-street car parking requirement of 22 spaces plus an ambulance bay.

The amended scheme now makes provision for a total of 25 off-street parking spaces, comprising the 16 spaces within the existing basement car park, 3 visitor spaces plus a dedicated ambulance bay within the new Fredbert Street forecourt, and 6 spaces within a new at-grade parking area fronting Wharf Road. The 16 existing spaces within the basement will all be allocated to staff whilst the 9 new at-grade parking spaces (3 spaces off Fredbert Street and 6 spaces off Wharf Road) have been designed at 2600m wide (User Class 3) and will all be allocated to visitors.

As outlined before, the proposed number of car parking is consistent with Clause 48 and therefore this application cannot be refused on reasons relating to parking.

**Compliance – Yes**

### **5(a)(iv) Leichhardt Local Environment Plan 2013 (LLEP 2013)**

The application was assessed against the following relevant clauses of the Leichhardt Local Environmental Plan 2013:

- Clause 1.2 – Aims of the Plan
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition Requires Development Consent
- Clause 4.3A(3)(a) – Landscaped Area for residential development in Zone R1
- Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1
- Clause 4.4 – Floor Space Ratio
- Clause 4.4A – Floor Space Incentives for active street frontages
- Clause 4.5 – Calculation of floor space ratio and site area

- Clause 4.6 – Exceptions to development standards
- Clause 5.9 – Preservation of trees or vegetation
- Clause 5.9AA – Trees or vegetation not prescribed by development control plan
- Clause 6.1 – Acid Sulphate Soils
- Clause 6.2 – Earthworks
- Clause 6.3 – Flood Planning
- Clause 6.4 – Stormwater management
- Clause 6.8 – Development in areas subject to aircraft noise

The following table provides an assessment of the application against the development standards:

Standard (maximum)	Proposal	% of non compliance	Compliances
<b>Floor Space Ratio</b> Required: 0.6:1 (2690.8)	1.02:1 (4,253 m <sup>2</sup> )	70%	No, refer to assessment below.
<b>Landscape Area</b>	<b>980 m<sup>2</sup> (21.9%)</b>	<b>Not Applicable</b>	Yes
<b>Site Coverage</b>	<b>2205 m<sup>2</sup> (47%)</b>	<b>Not Applicable</b>	Yes

The following provides further discussion of the relevant issues:

Clause 4.6 Exceptions to Development Standards

As outlined in table above, the proposal results in a breach of the following development standard:

- Clause 4.4 – Floor Space Ratio

Pursuant to Clause 4.4, the site is subject to a maximum floor space ratio (FSR) of 0.5:1. Under Clause 4.4(2B), the site is within land shown edged pink on the Floor Space Ratio Map and has a lot with an area that exceeds 450 square metres; therefore the maximum FSR for development for the purposes of residential accommodation is not to exceed 0.6:1.

The proposed GFA of 4,565 sqm equates to an FSR of 1.02:1. Accordingly, the proposal contravenes the maximum FSR pursuant to Clause 4.4(2B).

Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Clause 4.6 of the applicable local environmental plan below.

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of the applicable local environmental plan justifying the proposed contravention of the development standard which is summarised as follows:

- The density, bulk, and scale of the proposed alterations and additions is appropriate in the context of the configuration, scale, and bulk of the existing facility;
- The alterations and additions are primarily set within the internal footprint of the building;



- The proposal retains the existing three storey height and only results in a minor increase in GFA;
- The external additions, being changes to the roof pitch, infill sections of the balustrade balcony and new pergola, new entrance and foyer, and new living areas, are minor in nature. These external additions are sympathetic to the form, scale, and design of the facility and have negligible impacts on perceived bulk and scale; and
- The proposal is compatible with the prevailing character of Lilyfield in terms of built form and appearance and it contributes positively to the medium density environment.

The applicant's written rational adequately demonstrates compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

It is considered the development is in the public interest because it is consistent with the objectives of the R1 (General Residential) zone in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan for the following reasons:

The site is zoned R1 (General Residential) pursuant to the Leichhardt Local Environmental Plan 2013. The objectives of the R1 Zone are:-

- *"To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To improve opportunities to work from home.*
- *To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*
- *To provide landscaped areas for the use and enjoyment of existing and future residents.*
- *To ensure that subdivision creates lots of regular shapes that are complementary to, and compatible with, the character, style, orientation and pattern of the surrounding area.*
- *To protect and enhance the amenity of existing and future residents and the neighbourhood."*

The proposal is consistent with the above objectives in that:-

- It will provide for seniors housing needs in the local community;
  - It will deliver improved support services and residential accommodation that meet the day-to-day needs of residents (being frail aged and people living with disabilities);
  - It will redevelop the existing residential care facility in a manner that is compatible with the prevailing character, style, and pattern of surrounding buildings and streetscapes;
  - It will provide generous landscape areas for the use and enjoyment by residents; and
  - It will result in enhanced amenity for existing and future residents of the facility.
- 
- The public interest is best served by the orderly and economic use of land for permissible purposes in a form which is cognisant of and does not impact unreasonably on development on surrounding land, and which satisfies a market demand for contemporary seniors housing.

The proposal is in the public interest in that:

- Strong community demand for contemporary aged care facilities are better satisfied;
- An increased number of single beds will be available for seniors residents of Lilyfield and the wider Leichhardt and Inner West regions;
- Future residents will have excellent amenity and excellent access to high quality care;
- The facility is located in close proximity to public transport and services;

- Adjoining properties and land uses will suffer no unreasonable impacts;
  - New employment opportunities will be created during the construction and fit-out of the upgraded facility;
  - The staff of the facility would make use of existing services and commercial facilities in the surrounding suburbs, generating spin off or multiplier effects; and
  - The facility would have a significant operating budget, an element of which would be spent on local businesses and would have additional staff many of whom would shop in the local area on their way to or from work.
- 
- The proposed alterations and additions and associated refurbishment works will not result in significant adverse social impacts on existing and potential future residents of the facility nor on the wider surrounding area. The proposal will contribute to a liveable community and will foster a strong sense of community in facilitating social interaction among residents and staff.

The development is in the public interest in that it is entirely consistent with the objectives of floor space ratio development standard and with the objectives for development within the R1 (General Residential) Zone within which the development is proposed to be carried out.

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning. Council may assume the concurrence of the Director-General under the Planning Circular PS 18-003 issued in February 2018 in accordance with Clause 4.6(4)(b) of the applicable local environmental plan.

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the applicable local environmental plan. For the reasons outlined above, there are sufficient planning grounds to justify the departure from Floor Space Ratio and it is recommended the Clause 4.6 exception be granted.

#### Clause 6.8 – Development in areas subject to aircraft noise

(1) *The objectives of this clause are as follows:*

- (a) to prevent certain noise sensitive developments from being located near the Sydney (Kingsford Smith) Airport and its flight paths,*
- (b) to assist in minimising the impact of aircraft noise from that airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,*
- (c) to ensure that land use and development in the vicinity of that airport do not hinder or have any other adverse impacts on the ongoing, safe and efficient operation of that airport.*

(2) *This clause applies to development:*

- (a) that is on land that is near the Kingsford Smith Airport and in an ANEF contour of 20 or greater, and*
- (b) that the consent authority considers is likely to be adversely affected by aircraft noise, and*
- (c) that involves any one or more of the following:*
  - (i) the erection of a new building,*
  - (ii) a substantial alteration or addition to an existing building,*
  - (iii) an alteration or addition to a building that is required by a development consent to be compliant with AS 2021—2015,*
  - (iv) the change of use of any part of a building to a centre-based child care facility, educational establishment, entertainment facility, health services facility, place of public worship, public administration building or residential accommodation,*

(v) the change of use of any part of a building on land that is in an ANEF contour of 25 or greater to business premises, a hostel, office premises, retail premises or tourist and visitor accommodation,

(vi) the change of use of any part of a building on land that is in an ANEF contour of 30 or greater to light industry.

(3) Before determining a development application for development to which this clause applies, the consent authority:

(a) must consider whether the development will result in the creation of a new dwelling or an increase in the number of dwellings or people affected by aircraft noise, and

(b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2015, and

(c) must consider whether the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2015.

The subject site is located within the 20-25 ANEF contour. The alterations and additions will reduce the number of resident beds at the facility from 102 (as existing) to 94 (as proposed) and therefore it is considered that there will be a reduction of the people that will be affected. However, to ensure that the indoor sound levels is satisfactory, a standard council condition requiring an acoustic report prepared by a suitably qualified person and accompanying plans demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

### 5(b) Draft Environmental Planning Instruments

The application has been assessed against the relevant Draft Environmental Planning Instruments listed below:

- Draft State Environmental Planning Policy Environment
- Expansion of Annandale Heritage Conservation Area – Leichhardt Local Environmental Plan 2013

The Draft Environmental Planning Instruments listed above is not applicable to this application.

### 5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Leichhardt Development Control Plan 2013.

Part	Compliance
<b>Part A: Introductions</b>	
Section 3 – Notification of Applications	Yes
<b>Part B: Connections</b>	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
B3.1 Social Impact Assessment	Yes, refer to below
B3.2 Events and Activities in the Public Domain (Special Events)	N/A
<b>Part C</b>	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes

C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	N/A
C1.5 Corner Sites	N/A
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes, refer to earlier section
C1.9 Safety by Design	Yes, refer to below
C1.10 Equity of Access and Mobility	Yes, refer to below
C1.11 Parking	Yes, refer to below
C1.12 Landscaping	Yes
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	Yes, refer to below
C1.15 Signs and Outdoor Advertising	Yes
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	Yes
C1.18 Laneways	N/A
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	N/A
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
<b>Part C: Place – Section 2 Urban Character</b>	
Suburb Profile	Yes
C2.2.4.3 Leichhardt Park Distinctive Neighbourhood	Yes
<b>Part C: Place – Section 3 – Residential Provisions</b>	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes
C3.10 Views	Yes
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A
<b>Part C: Place – Section 4 – Non-Residential Provisions</b>	
C4.1 Objectives for Non-Residential Zones	N/A
C4.2 Site Layout and Building Design	N/A
C4.3 Ecologically Sustainable Development	N/A
C4.4 Elevation and Materials	N/A
C4.5 Interface Amenity	N/A
C4.6 Shopfronts	N/A
C4.7 Bulky Goods Premises	N/A
C4.8 Child Care Centres	N/A
C4.9 Home Based Business	N/A
C4.10 Industrial Development	N/A
C4.11 Licensed Premises and Small Bars	N/A

C4.12 B7 Business Park Zone	N/A
C4.13 Markets	N/A
C4.14 Medical Centres	N/A
C4.15 Mixed Use	N/A
C4.16 Recreational Facility	N/A
C4.17 Sex Services Premises	N/A
C4.18 Vehicle Sales or Hire Premises And Service Stations	N/A
C4.19 Vehicle Repair Station	N/A
C4.20 Outdoor Dining Areas	N/A
C4.21 Creative Industries	N/A
<b>Part D: Energy</b>	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	Yes
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
D2.4 Non-Residential Development	N/A
D2.5 Mixed Use Development	N/A
<b>Part E: Water</b>	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	Yes
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	Yes
E1.2.4 Stormwater Treatment	Yes
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	Yes
E1.2.7 Wastewater Management	Yes
E1.3 Hazard Management	Yes
E1.3.1 Flood Risk Management	Yes
E1.3.2 Foreshore Risk Management	N/A
<b>Part F: Food</b>	
Section 1 – Food	N/A
F1.1 Food Production	N/A
F1.1.3 Community Gardens	N/A
<b>Part G: Site Specific Controls</b>	
Old Ampol land, Robert Street	N/A
Jane Street, Balmain	N/A
Old Balmain Power Station	N/A
Wharf Road Birchgrove	N/A
Anka Site – No 118-124 Terry Street Rozelle	N/A
233 and 233A Johnston Street Annandale	N/A



The following provides discussion of the relevant issues:

### B3.1 Social Impact Assessment

Relevant objectives:-

- to ensure social impacts are considered in decision making and planning processes.
- to enhance consistency and transparency in Council's assessment of the social impacts during developments of new policies, plans, projects or proposed development.

The applicant had provided the following justification which is considered to be satisfactory:

*"Uniting Aldersgate has a number of building and operational deficiencies that compromise the quality and nature of services that current and future residents expect from a residential care facility. The facility is experiencing a reduction in occupancy rates due to the aging building and outdated model of care. The proposal will deliver a facility with closer alignment to Uniting Ageing's Service Model and Design Guide, with fewer double rooms and more single rooms.*

*This reflects growing demand for contemporary aged care services in the Inner West, an area where there is a recognised shortage of aged care accommodation that satisfies Commonwealth Accreditation requirements and that is capable of providing 24 hour care for seniors who can no longer remain in their own.*

*Currently, there is an oversupply of 188 beds in the Leichhardt LGA. In 2017, demand for aged care accommodation in the Leichhardt LGA was 325 beds; demand is expected to increase by around 15 places annually over the next fifteen years.*

*In terms of social inclusion, the proposal will contribute to a liveable community and will foster a strong sense of community in facilitating social interaction among residents and staff."*

### C1.11 Parking

Based on the SEPP 2004 the proposed upgraded facility requires a total of 22 off street parking spaces, comprising 14 staff spaces and 8 visitor spaces, plus a dedicated ambulance bay. The proposed upgraded facility makes provision for a total of 25 off-street parking spaces plus a dedicated ambulance bay, thereby satisfying the SEPP requirements."

This additional advice from Varga Traffic Planning Pty Ltd. confirms that the development provides parking number in accordance with the requirements of SEPP (Housing for Seniors or People with a Disability) 2004. In addition the parking numbers and access by service vehicles are consistent with the current use of the site and previous conditions of consent for development at the site under D.A.432/90.

The amended scheme now makes provision for a total of 25 off-street parking spaces, comprising the 16 spaces within the existing basement car park, 3 visitor spaces plus a dedicated ambulance bay within the new Fredbert Street forecourt, and 6 spaces within a new at-grade parking area fronting Wharf Road. Such that there will be a net gain of 5 on-street parking spaces

However the documentation states that service and delivery vehicles will access the basement car park via an easement through the adjoining University car park. Details of the easement are required to demonstrate legal right of way through the University carpark to the site.

Conditions will be recommended that requires that 16 parking spaces must be provided within the Basement car parking area and all 16 of these parking spaces must be allocated to be used by staff only.

Other conditions that will be recommended include:

- A notice shall be clearly displayed at the Fredbert Street and Wharf Road frontages to indicate that two visitor parking areas are available within the property with access from Fredbert Street and the other with access from Wharf Road.
- Access to the basement by service vehicles, including all garage vehicles, is to be via Wharf Road and the adjacent University carpark. If access arrangements with the University are not able to proceed or are discontinued then service access including garbage collection is to be carried out via Wharf Road and not via Fredbert Street.
- Any heavy vehicle or truck movements to and from the site during the construction period or on going operation of the site are to be restricted to via Wharf Road.

In summary, the proposal will result in a reduction of the number of rooms on the proposed site, the amended design will result in an increase of car parking from 22 to 26 off-street parking spaces which in turn achieve the parking standard specified under SEPP Senior Housing 2004. It is considered that the proposal is satisfactory in this regard subject to relevant conditions in attachment A of the report.

#### C1.14 Tree Management

Upon review of the amended *Arboricultural Impact Assessment Report* prepared by Warrick Varley and Mathew Reed, dated July 2018 and further information provided by phone correspondence on 28/08/2018 with Sam Sirdah, Senior Project Manager for *Impact Group*, it is considered that the required changes to the proposed plans to allow for the retention of T14 (*Cinnamomum camphora*, Camphor laurel) would be too onerous on the applicant in this instance.

Removal of T14 is supported subject to adequate compensatory replanting in addition to the proposed trees and vegetation in the submitted Landscape plan prepared by *Constructive Dialogue Architects*. It is considered that replacement planting can better achieve the objectives of Councils Tree Management Objectives within a reasonable time frame.

Furthermore it is requested that the advanced sized replacement specimen be planted in a location clearly viewed from Wharf Rd or Fredbert St frontage to offset the loss of local amenity value and canopy coverage.

Changes have been noted for trees 15, 16, 18 and 21 to reflect the correct species in the above mentioned amended *Arboricultural Impact Assessment Report* as addressed in previous comments.

The proposed tree removal of 4x *Cupressus sempervirens* (Italian Cypress) and 1x *Gleditsia tricanthos* (Honey locust) located to the front and side of the site is supported as they were considered to have relatively low landscape significance and easily replaced in the landscape. These specimens should not be considered a constraint on the development.

#### E1.2.2 Managing Stormwater within the Site, E1.3 Hazard Management and E1.3.1 Flood Risk Management

##### **Flooding and Stormwater**

The proposal has been amended which maintains the existing flow path from the trapped low point in Fredbert Street through the south western side of the site and the basement driveway and pedestrian access points are proposed to be maintained as existing. This maintains the existing situation and is therefore acceptable.

**On-site detention and water quality**

The proposal is generally acceptable in principle however some issues require amendments/clarifications:

- a) It is expected that in the future the Council pipeline on Wharf Road will be replaced by a 450mm diameter pipe to meet current drainage standards. The proposed connection to Council stormwater pipe on Wharf Road should be at or above the invert of this future pipe which is estimated to be RL30.14m AHD. This is achievable by raising the invert of the OSD tank to be no lower than RL30.24m AHD.
- b) The stormwater drainage details do not show the proposed connection to Council's drainage system and the details do not comply with Council's standard drawings and specifications.
- c) The Wharf Road carpark surface levels are lower than the proposed OSD water level. This will result in backflow from the OSD tank surcharging within the Wharf Road car park. It appears a non-return valve is proposed to prevent this occurrence, however this is not supported as this will result in stormwater flows bypassing the OSD tank. To address these issues several options appear available as follows:
  - a. The Wharf Road carpark designed to bypass the OSD tank, and the OSD tank outflow further restricted to compensate for the bypass flows.
  - b. The Jellyfish and OSD tank/surcharge pit and connection to Council's stormwater pipe relocated further north to be within the Wharf Road carpark and the TWL of the OSD tank revised to suit surface levels.
  - c. A secondary OSD system provided for the localised Wharf Road carpark catchment.

Note: Additional stormwater quality improvement devices will be required if the Wharf Road carpark does not drain via the proposed jellyfish device

- d) An OSD access opening should be located over the outlet pipes and a sump provided at the outlet point in accordance with the requirements of AS3500.3.
- e) The plans and details are inconsistent with respect to the proposed surface level of the OSD system surcharge pit.
- f) The underground OSD tank is within the zone of influence of the Wharf Road. The tank design should consider loads from any construction or other activities within the road reserve.

Therefore the stormwater concept plans must be amended accordingly. Refer to relevant conditions in attachment A of the report.

### 5(d) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

### 5(e) The suitability of the site for the development

The site is zoned R1 General Residential. Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

## 5(f) Any submissions

The application was notified in accordance with Leichhardt DCP 2013 for a period of 14 days to surrounding properties. Submissions from 3 properties were received.

The following issues raised in submissions have been discussed in this report:

- Issues in relation to car parking – see Section 5(c) – C1.1 – Car parking

In addition to the above issues, the submissions raised the following concerns which are discussed under the respective headings below:

### Issues in relation to the southern boundary fence shared with 17 Fredbert Street

**Comment:** The subject fence is proposed to be retained in the current proposal. Issues in relation to boundary fences are generally civil matters which can be resolved privately between the affected parties.

### Issues in relation to Celtis trees located within the garden bed and landscaped plan

**Comment:** The proposal is supported by an arborist report and landscaped plans which will be included in the stamped documents as part of the approved documentation. The arborist report had identified the significant vegetation located in the area adjacent to 17 Fredbert Street to be a Sweet Viburnum, Italian Cypress, a Jarcaranda and a Mulberry Tree. The first three are to be retained while the Mulberry Tree, which is a species under C1.14 of DCP 2013 where its removal does not require council approval, will be removed.

While the documentation provided with the application does not indicate there are Celtis trees located within the vicinity of 17 Fredbert Street (there are two of these species located elsewhere on the site), it can be noted that *Celtis sinensis* (Chinese Hackberry) and *Celtis Occidentalis* (American Nettle Tree) under 10 metres can be removed without council approval.

### Issues in relation to the pump house

**Comment:** There are no proposed changes to the pump house currently existing on site. This pump house was approved by a private certifier under a Complying Development Certificate on 7 July 2014.

## 5(g) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The proposal is not contrary to the public interest.

## 6 Referrals

### 6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in section 5 above.

- Development Engineer – No objections subject to a deferred commencement condition requiring legal right of way through the University carpark to the site to be demonstrate and conditions in relation to parking, access of service vehicles, access of vehicles during construction and conditions in relation to stormwater and on-site detention.
- Landscape – No objections subject to standard conditions and sufficient replacement planting.

- Health – No objections subject to standard conditions.

## 6(b) External

The application was not required to be referred to any external bodies.

## 7. Section 7.11 Contributions

Uniting is a direct provider of concessional accommodation to seniors in NSW and meets the relevant Seniors Housing SEPP definition of a 'social housing provider'. Thus, the consent authority does not have authority to require a contribution in respect of the development as per *The Minister for Planning issued a Direction under Section 94E of the EP&A Act which took effect on 14 September 2007. The Direction provides exemptions to contribution payments for registered social housing providers.*

Therefore it is considered that Section 7.11 contributions are not payable for the proposal.

## 8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013. The development will /will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is considered suitable for approved deferred commencement subject to the imposition of appropriate conditions.

## 9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6(3) of the LEP in support of the contravention of the development standard for 4.4 Floor Space Ratio. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds, the proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Planning Panel exercising the functions of the Council, as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979 grant deferred commencement consent to Development Application No: D/2018/98 for Alterations and additions to existing aged care building, and associated works, including car parking changes, new decks, landscaping and tree removal at Aldersgate Nursing Home, 16 Fredbert Street, Lilyfield subject to the conditions listed in Attachment A below.



## Attachment A – Recommended conditions of consent

### DEFERRED COMMENCEMENT

The following deferred commencement conditions shall be complied with to the satisfaction of Council, prior to the issue of an operational Development Consent.

1. Provide evidence of an easement or right of way benefiting the site over the adjacent University carpark between Wharf Road and the site's northern access to the basement carpark.

The operational Development Consent will be issued by Council (in writing) after the applicant provides sufficient information to satisfy Council in relation to the conditions of the deferred commencement consent.

If the applicant fails to satisfy Council as to the above matters within 5 years from the date of determination this consent will lapse.

### CONDITIONS OF CONSENT

2. Development must be carried out in accordance with Development Application No. D/2018/98 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Drawing No. DA02, Issue D – Level 3 Plan	Constructive Architects Dialogue	06/07/2018
Drawing No. DA03, Issue D – Level 2 & Site Plan	Constructive Architects Dialogue	06/07/2018
Drawing No. DA04, Issue D – Level 1 Plan	Constructive Architects Dialogue	06/07/2018
Drawing No. DA05, Issue D – Elevations	Constructive Architects Dialogue	06/07/2018
Drawing No. DA06, Issue D – Elevations & Sections	Constructive Architects Dialogue	06/07/2018
Document Title	Prepared By	Dated
Traffic and Parking Assessment Report	Varga Traffic Planning Pty Ltd	9 February 2018
Advice relating to Traffic and Parking Matters	Varga Traffic Planning Pty Ltd	9 July 2018
Geotechnical Review	Douglas Partners	9 November 2017
Building code of Australia 2016 Assessment Replot	Technical Inner Sight	14 December 2017
Access Review	Funktion	19/12/17
Flood Risk Management Report	Wood & Grieve Engineers	8 February 2018
Stormwater Plans	Prepared By	Dated
Drawing No. CI-520-01 Rev C and CI-526-01 Rev C	Wood & Grieve Engineers	09.07.18
Arboricultural Impact Assessment Report	Warrick Varley and Mathew Reed (Allied Tree Consultancy)	July 2018
Landscape Plans	Prepared By	Dated
Drawing Number 000, Issue D - Cover Sheet	Constructive Architects Dialogue	09.07.18
Drawing Number 100, Issue D – Master Landscape Plan	Constructive Architects Dialogue	09.07.18
Drawing Number C100, Issue D – Colour Master Landscape Plan	Constructive Architects Dialogue	09.07.18

Drawing Number 001, Issue D – Tree Management Plan	Constructive Architects	Dialogue	09.07.18
Drawing Number 101, Issue D – Landscape Plan (West)	Constructive Architects	Dialogue	09.07.18
Drawing Number 102, Issue D – Landscape Plan (East)	Constructive Architects	Dialogue	Drawing Number 101, Issue D – Landscape Plan (West)
Drawing Number 103, Issue D – Landscape Plan (Entry)	Constructive Architects	Dialogue	Drawing Number 101, Issue D – Landscape Plan (West)

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

Where there is an inconsistency between approved elevations and floor plan, the elevation shall prevail.

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

The existing elements (walls, floors etc) shown to be retained on the approved plans shall not be removed, altered or rebuilt without prior consent of the consent authority.

Note: Carrying out of works contrary to the above plans and/ or conditions may invalidate this consent; result in orders, on the spot fines or legal proceedings.

- 3. Consent is granted for the demolition of the following currently existing on the property, subject to strict compliance with the following conditions:

Elements	Location
Existing structures associated with the existing age care facility	As indicated on the approved drawings.

- a) The adjoining residents must be notified seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence, site contact details/person, elements to be demolished and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of and directly opposite the demolition site.
- b) Written notice is to be given to the Principal Certifying Authority for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections must be undertaken by the Principal Certifying Authority:
  - i) A *pre commencement* inspection when all the site works are installed on the site and prior to demolition commencing.
  - ii) A *final* inspection when the demolition works have been completed.

**NOTE:** If Council is nominated as your Principal Certifying Authority 24 - 48 hours notice to carry out inspections is required. Arrangement for inspections can be made by phoning 9367 9222.

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
- e) The demolition plans must be submitted to the appropriate Sydney Water Quick Check agent for a building plan approval.
- f) Demolition is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: *Demolition of structures*.
- g) The hours of demolition work are limited to between 7:00am and 6:00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.
- h) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority.
- i) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- j) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition.
- k) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.
- l) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- m) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense. Dial before you dig [www.1100.com.au](http://www.1100.com.au) should be contacted prior to works commencing.
- n) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times.
- o) Prior to demolition, a Work Plan must be prepared and submitted to the Principal Certifying Authority in accordance with the relevant provisions of Australian Standard 2601:2001 *Demolition of structures* by a person with suitable expertise and experience. The Work Plan must identify hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- p) If the property was built prior to 1987 an asbestos survey prepared by a qualified occupational hygienist is to be undertaken. If asbestos is present then:
  - i) A WorkCover licensed contractor must undertake removal of all asbestos.

- ii) During the asbestos removal a sign "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400 mm x 300 mm is to be erected in a visible position on the site to the satisfaction of Council.
- iii) Waste disposal receipts must be provided to Council / Principal Certifying Authority as proof of correct disposal of asbestos laden waste.
- iv) All removal of asbestos must comply with the requirements of WorkCover and Leichhardt Council.
- v) An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works.

4. Approval is given for the following works to be undertaken to trees on the site:

Tree/location	Approved works
4x <i>Cupressus sempervirens</i> (Italian Cypress), 1x <i>Cinnamomum camphora</i> , Camphor laurel and 1x <i>Gleditsia tricanthos</i> (Honey locust) located to the front and side of the site.	Remove

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved.

The approved works shall not be carried out unless this letter, or copy of it, is kept on the site. It shall be shown to any authorised Council Officer upon request.

All tree work shall be undertaken by an experienced Arborist with a minimum qualification of Level 3 under the Australian Qualification Framework (AQF). The work shall be undertaken in accordance with AS4373 – 2007 'Pruning of amenity trees' and in compliance with the Safe Work Australia Code of Practice 'Guide to Managing Risks of Tree Trimming and Removal Work'.

**PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE**

5. The trees identified below are to be retained:

Tree/location
Trees specified in amended <i>Arboricultural Impact Assessment Report</i> prepared by Warrick Varley and Mathew Reed, dated July 2018

Details of the trees to be retained must be included on the Construction Certificate plans

6. Before the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that no proposed underground services (i.e. water, sewerage, drainage, gas or other service) unless previously approved by conditions of consent, are located beneath the canopy of any tree protected under the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, located on the subject allotment and adjoining allotments.

A plan detailing the routes of these services and trees protected under the State Environmental Planning Policy shall be prepared. Details demonstrating compliance are to be shown on the plans submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

7. The footings of the proposed deck will be isolated pier or pier and beam construction within the specified radius of the trunk(s) of the following tree(s).

Schedule	
Tree/location	Radius in metres
Trees 13, 16, 17, 18 and 19 listed in amended <i>Arboricultural Impact Assessment Report</i> prepared by Warrick Varley and Mathew Reed, dated July 2018	As per report

The piers shall be located such that no roots of a diameter greater than 30mm will be severed or injured during the construction period. The beam(s) shall be of reinforced concrete or galvanised steel sections and placed in positions with the base of the beam being a minimum of 50mm above existing soil levels.

Structural details of the pier or pier and beam construction shall be submitted to the Principal Certifying Authority satisfying the above requirements prior to the release of a Construction Certificate.

8. The following replacement trees must be planted:

Tree/species	Quantity	Location
Advanced sized replacement specimen.	1	Must be planted in a location clearly viewed from Wharf Rd or Fredbert St frontage.

The minimum pot size at time of planting will be equivalent to 1000 litre (min) containerised stock. The tree(s) is/are to conform to the AS 2303—*Tree Stock for Landscape Use*.

Details of the species and planting locations of the replacement plants must be included on the landscape plan and site plan prior to the issue of a Construction Certificate.

Details of proof of purchase of specimen and suppliers details shall be submitted to Council before the issue of a Construction Certificate. Council is to inspect that the specimen has been planted on site prior to the issuing of any form of Occupation Certificate.

Tree transplanter must have a minimum of 5 years demonstrable industry experience in transplanting and transporting advanced sized (>400L stock) trees in the landscape. The transplantation must be supervised by a qualified Arborist. A *Transplantation Methods Statement* detailing the following points is to be prepared by an AQF Level 5 Arborist and must be provided prior to the issue of a Construction Certificate:

- i) Pre-transplantation schedule of works.
- ii) Preparation of transplantation site.
- iii) Transplantation method.
- iv) Post-transplantation after care and duration.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

Replacement trees (as specified above) are to be planted within 30 days of the removal. Council is to be notified when the replacement tree has been planted within the timeframe specified above and an inspection arranged with Council's Tree Assessment Officer. If the replacement is found to be faulty, damaged, dying or dead prior to being protected under the Tree Management Controls of the Leichhardt Development Control Plan 2013, the replacement tree shall be replaced with the same species, which will comply with the criteria above.

Council encourages the uses of replacement trees that are endemic to the Sydney Basin to increase biodiversity in the local environment and provide a natural food source for native birds and marsupials. Note: Any replacement tree species must not be a palm tree species or be a plant declared to be a noxious weed under the Noxious Weeds Act 1993 or tree species listed as an exempt species under Section C1.14 (Tree Management) of the Leichhardt Development Control Plan 2013.



9. A dilapidation report on the visible and structural condition of the following public infrastructure including CCTV survey where applicable, shall be provided to the Principal Certifying Authority and Council prior to any demolition or works commencing on the site or the issue of a Construction Certificate (whichever comes first).
- a) The existing Council stormwater pits and pipes adjacent the site on Fredbert Street and Wharf Road including CCTV footage.
  - b) The footpath, kerb and gutter and road adjacent the site on Fredbert Street.
  - c) The footpath, kerb and gutter and road adjacent the site on Wharf Road.

The dilapidation report is to be prepared by a practising Structural/Civil Engineer agreed to by both the applicant and Council. All costs incurred in achieving compliance with this condition shall be borne by the applicant.

The liability of any damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded by the requirements of this condition will be borne by the applicant.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

10. A stormwater drainage design, incorporating on site stormwater detention facilities (OSD), prepared by a qualified practising Civil Engineer shall be provided prior to the issue of a Construction Certificate. The design shall be prepared/amended to make provision for the following:
- a) The design shall be generally in accordance with the stormwater drainage concept plan on Drawing No. CI-520-01 Rev C and CI-526-01 Rev C prepared by Wood & Grieve Engineers and dated 09.07.18.
  - b) Comply with Council's Stormwater Drainage Code.
  - c) Charged or pump-out stormwater drainage systems are not permitted.
  - d) The proposed connection(s) to Council stormwater pipe on Wharf Road shall be no lower than 450mm above the invert of the existing Council stormwater pipe.
  - e) Details of the proposed new Council stormwater pit(s) on Wharf Road and the connection(s) of the site drainage system to the stormwater pit(s) shall provided on the plans and shall comply with Council's standard drawings and specifications.
  - f) The OSD system shall be relocated and/or redesigned such that the Wharf Road carpark surface flows drain to the OSD system when the water level in the OSD system reaches the top water level (TWL) and the level of the OSD surcharge pit.  
  
Alternatively the Wharf Road carpark drainage system shall be designed to bypass the OSD system and the OSD system storage volume increased and orifice size reduced as necessary to offset the bypass flows.
  - g) An access openings should be located over the outlet and inlet pipes of the OSD tank and a sump provided at the outlet point in accordance with the requirements of AS3500.3.
  - h) All plans, sections and details shall be consistent with respect to the proposed invert and surfaces levels including that of the OSD system surcharge pit.

- i) Long sections of the site stormwater drainage system of all pipes greater than 300mm diameter shall be provided to the connection to Council's stormwater drainage system on Wharf Road. All relevant details shall be provided including 20 year HGL, 100 year HGL and the location and clearance to all utility services with Wharf Road as determined by field investigations.
- j) The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design shall include the collection of such waters and discharge to the Council drainage system.
- k) The existing overland flowpath through the property from Fredbert Street to the University site to the west shall be maintained. Flows shall not be blocked or redirected to neighbouring properties.
- l) A minimum 150mm step up shall be provided between the finished surfaces of all external courtyards and the adjacent internal floor levels.
- m) All plumbing within the site shall be carried out in accordance with Australian Standard AS/NZS3500.3.2015 *Plumbing and Drainage – Stormwater Drainage*.
- n) Plans shall specify that any components of the existing system to be retained shall be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required.
- o) An inspection opening or stormwater pit shall be installed inside the property adjacent to the boundary for all stormwater outlets.
- p) All redundant stormwater pipelines within the footpath area shall be removed and the footpath and kerb reinstated.
- q) Stormwater quality improvement devices shall be installed such that stormwater flows leaving the site meet the following environmental targets:

Pollutant	Baseline Pollution (kg/ha/yr)	Annual Load	Retention Criteria
Gross Pollutants, including trash, litter and vegetation matter greater than 5mm	500		90% reduction of average annual load
Total Suspended solids, including sediment and other fine material less than 5mm	900		85% reduction of average annual load
Total Phosphorous	2		65% reduction of average annual load
Total Nitrogen	15		45% reduction of average annual load
Hydrocarbons (Oil and Grease)			90% reduction of average annual load – no visible discharge
Toxicants			100% containment of toxicants

The design shall be certified as compliant with the terms of this condition by a suitably qualified Civil Engineer.

Amended plans shall be submitted to and approved by Council before the issue of a Construction Certificate.

11. An underground Water Tank(s) design prepared by a suitably qualified Structural Engineer with NPER registration shall be provided prior to the issue of a Construction Certificate. The design shall be prepared to make provision for the following:
  - a) Comply with all relevant Australian Standards including AS2865, AS3500, AS3600 and AS3996.
  - b) An internal clear vertical tank depth not less than 600mm.
  - c) An inspection/access opening above the location of any inlets and outlet pipes with dimensions at least 600mm x 600mm or 600 mm diameter for storages up to 800 mm deep and 600 x 900 mm for deeper storages. The access opening shall be accessible from the finished level of the above surface. There shall be no impediments to the removal of debris through this opening. Inspection shall be possible without residents or owners having to remove heavy access covers.
  - d) Where the depth of the tank exceeds 1.2 m, a ladder in accordance with Clause 7.5.5.4 of AS3500.3-2015 shall be installed.
  - e) Be secured against unauthorized entry and where practicable, permanently signposted in accordance with Clause 3.2.2 and Figure 2 of AS2865-2009
  - f) The tank shall be entirely self supporting in the event that excavation is undertaken within the road reserve adjacent to the property boundary to the depth of the proposed structure.
  - g) The tank shall be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment, based on a design life of not less than 50 years.

The design shall be certified as compliant with the terms of this condition by a suitably qualified Structural Engineer with NPER registration.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

12. Alignment levels for the site at all pedestrian and new vehicular access locations shall match the existing back of footpath levels at the boundary. Alignment levels for the site at all existing vehicular access locations shall match the existing levels at the boundary.

Note: This may require the internal site levels to be adjusted locally at the boundary to ensure that they match the above alignment levels. Failure to comply with this condition will result in vehicular access being denied.

13. The design of the vehicular access and off street parking facilities shall comply with Australian Standard AS/NZS2890.1-2004 *Parking Facilities – Off-Street Car Parking*. Details demonstrating compliance are to be provided prior to the issue of a Construction Certificate. The following specific issues shall be addressed in the design:
  - a) The floor/finished levels within the property shall be adjusted to ensure that the levels at the boundary comply with the Alignment Levels issued with this consent.
  - b) The longitudinal profile across the width of the vehicle crossing shall comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.

- c) A minimum of 2200mm headroom shall be provided throughout the access and parking facilities. Note that the headroom shall be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.
- d) Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway shall be provided, demonstrating compliance with the above requirements.

The design shall be certified by a suitably qualified Civil Engineer as complying with the above requirements.

Details demonstrating compliance shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

14. In order to provide satisfactory vehicular and pedestrian access, drainage, landscaping and aesthetic improvements to the public domain adjacent to the site, the following works shall be undertaken at no cost to Council:
- a) The existing asphalt footpath at the Wharf Road frontage of the site shall be reconstructed.
  - b) The construction of a heavy duty vehicular crossing as the Wharf Road vehicular access location;
  - c) The construction of a heavy duty vehicular crossing as the Fredbert Street Road vehicular access location including all necessary adjustments/reconstruction (lowering) to the Fredbert Street road to suit the vehicular crossing. The longitudinal profile across the width of the vehicle crossing shall comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.
  - d) The existing unsatisfactory road pavement in Fredbert Street shall be repaired using a 40mm Mill and Fill treatment for half the road width for the full frontage of the site. Any failed section shall be boxed out and replaced with deeplift asphalt before the Mill and Fill treatment.
  - e) Construction of 2.4m lintels (minimum) on the two existing Council stormwater pits on Fredbert Street adjacent the site.
  - f) Removal of all redundant vehicular crossings to the site including the vehicular/pedestrian ramp at the southern end of Wharf Road frontage;
  - g) Construction of new stormwater pit(s) on the existing Council stormwater pipe on Wharf Road at the location(s) the site drainage system connects to the Council stormwater pipe.

Development Consent does NOT give approval to undertake any works on Council property. **An application shall be made to Council and a Roadworks Application issued under Section 138 of the Roads Act 1993 prior to the construction of these works.**

All works shall be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-"Roadworks Specifications"

Full detailed construction plans and specifications shall be submitted to Council for approval under Section 138 of the Roads Act 1993 before the issue of a Construction Certificate with all works completed before to the issue of an Occupation Certificate.

15. As the site where the property is identified as located within ANEF 20-25 or greater, the development approved under this consent must meet the relevant provisions of Australian Standard AS 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction.

An acoustic report prepared by a suitably qualified person and accompanying plans demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

16. Any air conditioning unit on the site must be installed and operated at all times so as not to cause "Offensive Noise" as defined by the Protection of the Environment (Operations) Act 1997.

The system/s shall be operated as follows:

- a) Domestic air conditioners must not be audible in nearby dwellings between:
- i) 10:00pm to 7:00am on Monday to Saturday; and
  - ii) 10:00pm to 8:00am on Sundays and Public Holidays.
- b) At any other time the systems and associated equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background  $L_{A90, 15min}$  noise level, measured in the absence of the noise source/s under consideration by 5dB(A).

The source noise level shall be assessed as an  $L_{Aeq, 15min}$  and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

Air conditioning units must be installed in accordance with plans referenced in condition 1 or to satisfy provisions of the State Environmental Planning Policy (Exempt & Complying Codes) 2008.

Details demonstrating compliance with the requirements of this condition and the acoustic measures to be employed to achieve compliance with this condition are to be submitted for approval to the Principal Certifying Authority prior to the issue of any Construction Certificate.

17. All plant and associated equipment must be located within the approved building envelope and is not be located on the roof. Details on the location of all plant and equipment must be consistent with the approved plans and provided prior to the issue of a Construction Certificate.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

18. In accordance with the provisions of the *Environmental Planning and Assessment Act 1979* construction works approved by this consent must not commence until:

- a) A Construction Certificate has been issued by Council or an Accredited Certifier. Either Council or an Accredited Certifier can act as the "Principal Certifying Authority."
- b) A Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment.
- c) At least two days notice, in writing has been given to Council of the intention to commence work.

The documentation required under this condition must show that the proposal complies with all Development Consent conditions and is not inconsistent with the approved plans, the Building Code of Australia and the relevant Australian Standards.

19. Pursuant to Clause 94 of the Environmental Planning & Assessment Regulation 2000, the consent authority has undertaken an assessment of the development proposal and requires the building to be upgraded as the measures within the building are inadequate for:

- a) Protecting users of the building in the event of fire.
- b) Facilitating egress from the building in the event of fire
- c) Restricting the spread of fire from the building to other buildings nearby.

In such circumstances, the consent authority is to take into consideration whether it would be appropriate to require the existing building to be brought into total or partial conformity with the BCA Vol 1.

Due to the extent of proposed works it is appropriate to ensure the development be brought into partial conformity with the BCA.

20. 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 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more. The Long Service Levy is payable prior to the issue of a Construction Certificate.

Details demonstrating compliance are to be shown on the plans submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

21. If any excavation extends below the level of the base of the footings of a building on an adjoining property, the person causing the excavation:
- a) Must preserve and protect the adjoining building from damage
  - b) Must, at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - c) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this condition, the allotment of land includes public property.

22. A Certificate prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority. The certificate shall also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

23. A Soil and Water Management Plan must be provided prior to the issue of a Construction Certificate. The Soil and Water Management plan must be designed to be compatible with the document *Planning for Erosion and Sediment Control on Single Residential Allotments or Managing Urban Stormwater—Soils & Construction Volume 1 (2004)* available at [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au) and the Construction Management and Traffic Management Plan referred to in condition/s of this Development Consent and must address, but is not limited to the following issues:

- a) Minimise the area of soils exposed at any one time.
- b) Conservation of top soil.
- c) Identify and protect proposed stockpile locations.
- d) Preserve existing vegetation. Identify revegetation technique and materials.
- e) Prevent soil, sand, sediments leaving the site in an uncontrolled manner.
- f) Control surface water flows through the site in a manner that:
  - i) Diverts clean run-off around disturbed areas;
  - ii) Minimises slope gradient and flow distance within disturbed areas;
  - iii) Ensures surface run-off occurs at non erodable velocities;
  - iv) Ensures disturbed areas are promptly rehabilitated.
- g) Sediment and erosion control measures in place before work commences.
- h) Materials are not tracked onto the road by vehicles entering or leaving the site.
- i) Details of drainage to protect and drain the site during works.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

24. The approved plans must be checked online with Sydney Water Tap In to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. A copy of this approval must be supplied with the Construction Certificate application. Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 132092.

The Certifying Authority must ensure that the appropriate approval has been provided prior to the issue of a Construction Certificate.

25. Prior to the issue of a Construction Certificate, the applicant must prepare a Construction Management Plan. The following matters should be addressed in the plan (where applicable):
- a) A plan view of the entire site and frontage roadways indicating:
    - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
    - ii) The locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council.
    - iii) Location of any proposed crane and concrete pump and truck standing areas on and off the site.
    - iv) A dedicated unloading and loading point within the site for construction vehicles, plant and deliveries.
    - v) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
  - b) Noise and vibration  
During excavation, demolition and construction phases, noise & vibration generated from the site must be controlled. Refer to other conditions of this consent. If during excavation,



rock is encountered, measures must be taken to minimise vibration, dust generation and impacts on surrounding properties. Refer to Environmental Noise Management Assessing Vibration: a technical Guideline (Department of Environment and Conservation, 2006) [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au) for guidance and further information.

- c) Occupational Health and Safety  
All site works must comply with the occupational health and safety requirements of the New South Wales Work Cover Authority.
- d) Toilet Facilities  
During excavation, demolition and construction phases, toilet facilities are to be provided on the site, at the rate of one toilet for every twenty (20) persons or part of twenty (20) persons employed at the site. Details must be shown on the plan.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

- 26. A Waste Management Plan (WMP) is to be provided in accordance with **Part D – Waste – Development Control Plan 2013**. The Plan must address all issues identified in the DCP including but not limited to:
  - a) Estimated volume (m3) or weight (t) of materials that are reused, recycled or removed from site.
  - b) On site material storage areas during construction.
  - c) Material and methods used during construction to minimise waste.
  - d) Nomination of end location of all waste and recycling generated from a facility authorised to accept the material type for processing or disposal and retention of waste dockets to be made available to Council Officer on request
  - e) A clear statement within the Waste Management Plan of responsibility for the transferral of waste and recycling bins within the property and between floors where applicable to the collection point in accordance with DCP 2013.

All requirements of the approved Waste Management Plan must be implemented during the demolition, excavation and construction of the development.

**PRIOR TO WORKS COMMENCING OR ISSUE OF A CONSTRUCTION CERTIFICATE (WHICHEVER OCCURS FIRST)**

- 27. A detailed Traffic Management Plan to cater for construction traffic shall be submitted to and approved by Council before commencement of works. Details shall include haulage routes, estimated number of vehicle movements, truck parking areas, work zones, crane usage, etc., related to demolition/construction activities.
- 28. Prior to the commencement of demolition works on the subject site or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee as detailed below must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works.

Security Deposit (FOOT)	\$22,180.00
Inspection fee (FOOT)	\$230.65

Payment will be accepted in the form of cash, bank cheque or EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.

The inspection fee is required for Council to determine the condition of the adjacent road reserve & footpath prior to & on completion of the works being carried out.

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, Council may carry out any works necessary to repair the damage and/or remove the risk. The cost of these works will be deducted from the security deposit.

A request for release of the security may be made to the Council after all construction work has been completed and a Final Occupation Certificate issued.

The amount nominated is only current for the financial year in which the consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

29. Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent shall obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993. Permits are required for the following activities:
- a) Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application.
  - b) A concrete pump across the roadway/footpath
  - c) Mobile crane or any standing plant
  - d) Skip bins
  - e) Scaffolding/Hoardings (fencing on public land)
  - f) Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.
  - g) Awning or street verandah over footpath
  - h) Partial or full road closure
  - i) Installation or replacement of private stormwater drain, utility service or water supply

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities.

Applications for such Permits shall be submitted and approved by Council prior to the commencement of the works associated with such activity or issue of the Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate

30. An Asbestos Survey prepared by a suitably qualified Occupational Hygienist shall be prepared for the premises. The Survey is to incorporate appropriate Asbestos removal and disposal methods in accordance with the requirements of WorkCover NSW, NSW Environmental

Planning and Assessment Amendment (Asbestos) Regulation 2009 and NSW Environment Protection Authority, Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)] and conditions of this consent.

A copy of any WorkCover approval documents is to be included as part of the documentation.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to any works on site commencing or the issue of the Construction Certificate (whichever occurs first).

- 31. To preserve the following tree/s and avoid soil compaction, no work shall commence nor shall a Construction Certificate be issued (whichever occurs first) until temporary measures to avoid soil compaction (e.g. rumble boards or similar as specified in Section 4.5.3 of AS4970—*Protection of trees on development sites*) beneath the canopy of the following tree/s is/are installed:

Tree/Location
As per stamped arborist report

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

- 32. To preserve the following tree/s, no work shall commence until their Protection Zone (in accordance with AS4970-*Protection of trees on development sites*) is fenced off at the specified radius from the trunk/s to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

Tree/location	Radius in metres
All trees subject to section 8.0 <i>Protection specifications</i> in the amended <i>Arboricultural Impact Assessment Report</i> prepared by Warrick Varley and Mathew Reed, dated July 2018.	As per stamped arborist report.

A minimum 1.8m high barrier (Chain wire mesh panels, plywood or wooden paling fence panels; refer to AS4687-*Temporary fencing and hoardings* for fencing requirements) shall be erected around the perimeter of the stated Protection Zone as measured from the base of the tree (or where practical). Shade cloth or similar should be attached to reduce the transport of dust, other particulate matter and liquids into the protected area. Fence posts and supports should have a diameter greater than 20mm and be located clear of roots. The barrier shall be constructed so as to prevent pedestrian and vehicular entry into the protection zone. The barrier shall not project beyond the kerb onto the roadway or any adjacent footpath.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

- 33. Upon installation of the required tree protection measures, an inspection of the site by the Principal Certifying Authority is required to verify that tree protection measures comply with all relevant conditions.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

**PRIOR TO THE COMMENCEMENT OF WORKS**

34. The proposed structure(s) to be erected must stand wholly within the boundaries of the subject site. No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach onto adjoining properties or upon public property.

To ensure that the location of the building satisfies the provision of the approval, the footings and walls within one (1) metre of the property boundaries must be set out by or the location certified by a registered surveyor in accordance with the approved plans, prior to the commencement of works.

To ensure that the location of the building satisfies the provision of the approval, a check survey certificate shall be submitted to the Principal Certifying Authority either prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, indicating the:

- a) location of the building with respect to the boundaries of the site;

35. The site must be secured with temporary fencing prior to any works commencing.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public property to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. Additionally an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property, where necessary.

Separate approval is required under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property. Approvals for hoardings, scaffolding on public land must be obtained and clearly displayed on site for the duration of the works.

Any hoarding, fence or awning is to be removed when the work is completed and must be maintained clear of any advertising.

36. Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands shall take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy shall be submitted to Council prior to commencement of the works. The Policy shall be valid for the entire period that the works are being undertaken on public property.
37. Prior to the commencement of works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.
38. At least forty-eight (48) hours prior to the commencement of works, a notice of commencement form (available on Council's web page) and details of the appointed Principal Certifying Authority shall be submitted to Council.
39. Prior to the commencement of works, a sign must be erected in a prominent position on the site (for members of the public to view) on which the proposal is being carried out. The sign must state:
- a) Unauthorised entry to the work site is prohibited.
- b) The name of the principal contractor (or person in charge of the site) and a telephone number at which that person may be contacted at any time for business purposes and outside working hours.

- c) The name, address and telephone number of the Principal Certifying Authority for the work.

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

Photographic evidence demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority and Council for records purposes prior to the commencement of any onsite work.

**DURING WORKS**

- 40. If tree roots are required to be severed for the purposes of constructing the approved works, they shall be cut cleanly using a sharp and *fit for purpose tool*. No tree roots of 30mm or greater in diameter are to be cut or damaged. The pruning shall be undertaken by a minimum Level 3 (AQF 3) qualified Arborist.

Details demonstrating compliance with the requirements of this condition are to be submitted by the Arborist undertaking the works to the satisfaction of the Principal Certifying Authority

- 41. The trees to be retained shall be inspected, monitored and treated by a qualified Arborist during and after completion of development works to ensure their long term survival. Regular inspections and documentation from the Arborist to the Principal Certifying Authority are required at the following times or phases of work:

Schedule	
Tree/location	Time of Inspection
All trees subject to section 7.4 <i>Compliance Documentation</i> of the submitted amended <i>Arboricultural Impact Assessment Report</i> prepared by Warrick Varley and Mathew Reed, dated July 2018	As per report.

Recommendations to ensure the tree/s long term survival must be carried out immediately upon receipt of the report.

Arborist - for the purpose of this condition a suitably qualified professional shall have as a minimum, Level 5 (Diploma) certification in Arboriculture under the Australian Qualification Framework (AQF).

Details demonstrating compliance with the requirements of this condition are to be submitted by the Arborist undertaking the works to the satisfaction of the Principal Certifying Authority.

- 42. Where a tree's canopy or root system has developed across property boundaries, consent to undertake works on the tree does not permit a person acting on the consent to trespass on adjacent lands. Where access to adjacent land is required to carry out approved tree works, Council advises that the owners consent must be sought. Notification is the responsibility of the person acting on the consent. Should the tree owner/s refuse access to their land, the person acting on the consent shall meet the requirements of the *Access To Neighbouring Lands Act 2000* to seek access.

Details demonstrating compliance with the requirements of this condition are to be submitted by the Arborist undertaking the works to the satisfaction of the Principal Certifying Authority.

- 43. All excavation within the specified radius of the trunk(s) of the following tree(s) being hand dug:

Schedule	
Tree/location	Radius in metres
Trees 13, 16, 17, 18 and 19 listed in amended <i>Arboricultural Impact Assessment Report</i>	As per report.

prepared by Warrick Varley and Mathew Reed, dated July 2018	
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Details demonstrating compliance with the requirements of this condition are to be submitted by the Arborist undertaking the works to the satisfaction of the Principal Certifying Authority.

- 44. No activities, storage or disposal of materials taking place beneath the canopy of any tree protected under Council's Tree Management Controls at any time.
- 45. No trees on public property (footpaths, roads, reserves etc) are to be removed or damaged during works unless specifically approved in this consent or marked on the approved plans for removal.

Prescribed trees protected by Council's Management Controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent.

- 46. Any new information revealed during development works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.
- 47. Building materials and machinery are to be located wholly on site unless separate consent (Standing Plant Permit) is obtained from Council/ the roads authority. Building work is not to be carried out on the footpath.

Construction materials and vehicles shall not block or impede public use of the footpath or roadway.

- 48. All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent them from being dangerous to life or property and in accordance with the design of a suitably qualified structural engineer.

If excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must:

- a) Preserve and protect the building from damage.
- b) If necessary, underpin and support the building in an approved manner.
- c) Give at least seven (7) days notice to the adjoining owner before excavating, of the intention to excavate within the proximity of the respective boundary.

Any proposed method of support to any excavation adjacent to adjoining properties or any underpinning is to be designed by a Chartered Civil Engineer, with National Professional Engineering Registration (NPER) in the construction of civil/structural works. Copies of the design plans must be provided to the relevant adjoining property owner/s prior to commencement of such works. Prior to backfilling, any method of support constructed must be inspected by the designing Engineer with certification provided to all relevant parties.

- 49. The site must be appropriately secured and fenced at all times during works.
- 50. All fill used with the proposal shall be virgin excavated material (such as clay, gravel, sand, soil and rock) that is not mixed with any other type of waste and which has been excavated from areas of land that are not contaminated with human made chemicals as a result of industrial, commercial, mining or agricultural activities and which do not contain sulphate ores or soils.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority.

51. Unless otherwise approved by Council, excavation, demolition, construction or subdivision work shall only be permitted during the following hours:
- a) 7:00 am to 6.00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
  - b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
  - c) at no time on Sundays or public holidays.

Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.

In the case that a standing plant or special permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.

This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.

Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving shall be limited to:

8:00 am to 12:00 pm, Monday to Saturday; and  
2:00 pm to 5:00 pm Monday to Friday.

The Proponent shall not undertake such activities for more than three continuous hours and shall provide a minimum of one 2 hour respite period between any two periods of such works.

"Continuous" means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

52. In addition to meeting the specific performance criteria established under this consent, the Applicant shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the demolition, construction or operation/use of the development.
53. The development must be inspected at the following stages by the Principal Certifying Authority during construction:
- a) after excavation for, and prior to the placement of, any footings, and
  - b) prior to pouring any in-situ reinforced concrete building element, and
  - c) prior to covering of the framework for any floor, wall, roof or other building element, and
  - d) prior to covering waterproofing in any wet areas, and
  - e) prior to covering any stormwater drainage connections, and
  - f) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.



54. A copy of the approved plans and this consent must be kept on site for the duration of site works and in the case of any commercial or industrial premise for the duration of the use/trading. Copies shall be made available to Council Officer's upon request.
55. Sedimentation controls, tree protection measures and safety fencing (where relevant) shall be maintained during works to ensure they provide adequate protection during the course of demolition, excavation and construction works. Materials must be stored in a location and manner to avoid material being washed to drains or adjoining properties.

The requirements of the Soil and Water Management Plan must be maintained at all times during the works and shall not be removed until the site has been stabilised to the Principal Certifying Authority's satisfaction.

Material from the site is not to be tracked onto the road by vehicles entering or leaving the site. At the end of each working day any dust/dirt or other sediment shall be swept off the road and contained on the site and not washed down any stormwater pit or gutter.

The sediment and erosion control measures are to be inspected daily and defects or system failures are to be repaired as soon as they are detected.

#### PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

56. Any soil proposed to be disposed off site must be classified, removed and disposed of in accordance with the *EPA Environmental Guidelines; Assessment, Classification and Management of Liquid and Non-Liquid Wastes 1999* and the *Protection of the Environmental Operations Act 1997*.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Occupation Certificate.

57. All works required to be undertaken on public roads shall be designed and constructed in accordance with Council's standard plans and specifications. The works shall be supervised and certified by a qualified civil engineer who is listed under the Institution of Engineers, Australia "National Professional Engineers Register" (NPER) and shall state that the works have been constructed in accordance with the approved plans and specifications before the issue of the Occupation Certificate.

Video inspection (CCTV) shall be carried out of completed stormwater drainage works that are to revert to Council and a copy provided to Council to support the certification of those works.

In addition, full works-as-executed plans in PDF or CAD format (dwg or dxf files), prepared and signed by a registered surveyor, shall be submitted to Council upon completion of the works.

58. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards.

Works-as-executed plans of the stormwater drainage system, certified by a Registered Surveyor, together with certification by a qualified practising Civil Engineer to verify that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards, shall be submitted and accepted by Council prior to the issue of an Occupation Certificate.

The works-as-executed plan(s) shall show the as built details in comparison to those shown on the drainage plans approved with the Construction Certificate. All relevant levels and details

indicated shall be marked in red on a copy of the Principal Certifying Authority stamped Construction Certificate plans.

- 59. Prior to issue of the Occupation Certificate the person acting on this consent shall obtain from Council a compliance Certificate(s) stating that all Road, Footpath and Public Domain Works on Council property required to be undertaken as a result of this development have been completed satisfactorily and in accordance with Council approved plans and specifications.
- 60. The approved parking spaces shall be allocated as detailed below. All spaces shall be appropriately line marked and labelled according to this requirement prior to the issue of an Occupation Certificate.

Number of spaces	Car parking allocation
16	Employee parking spaces within the basement area
6	Visitor spaces within the parking facilities accessed via Wharf Road
2	Visitor spaces within the parking facilities accessed via Fredbert Street adjacent to the main entry
1	Disability Parking spaces within the parking facilities accessed via Fredbert Street adjacent to the main entry
1	Ambulance Bay within the parking facilities accessed via Fredbert Street adjacent to the main entry
1	Service Vehicle Delivery Bay within the basement area adjacent to the delivery dock

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

- 61. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that the vehicle access and off street parking facilities have been constructed in accordance with the approved design and relevant Australian Standards.

Certification by a qualified practising Civil Engineer that the vehicular access and off street parking facilities have been constructed in accordance the development consent and with relevant Australian Standards shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

- 62. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that an Operation and Management Plan has been prepared and implemented for the on site detention facilities and stormwater quality improvement devices. The Plan shall set out the following at a minimum:
  - a) The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.
  - b) The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

The Plan shall be prepared by a suitably qualified professional and provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

- 63. A second Dilapidation Report addressing the public infrastructure identified in condition/s of this consent, including a CCTV survey, shall be submitted after the completion of works. A copy of this Dilapidation Report shall be lodged with Council and the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Any damage identified in the Dilapidation Report shall be fully rectified by the applicant or owner at no cost to Council prior the issue of an Occupation Certificate.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

64. The existing stone kerb adjacent to the site is of local heritage value and is to be preserved and returned to Council's depot at no cost to Council. Any damage to the stone kerb will require the replacement of the damaged individual stone units before the issue of the Occupation Certificate.
65. Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever shall not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed before the issue of the Occupation Certificate.
66. You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.
67. Prior to the issue of an Occupation Certificate, a positive covenant shall be created under Section 88E of the *Conveyancing Act 1919*, burdening the owner(s) with the requirement to maintain the on site detention facilities and stormwater quality improvement devices on the property.

The terms of the 88E instrument with positive covenant shall include, but not be limited to, the following:

- a) The Proprietor of the property shall be responsible for maintaining and keeping clear all pits, pipelines, trench barriers, filtration baskets and other structures associated with the on site detention facilities ("OSD") and stormwater quality improvement devices ("SQIDS").
- b) The Proprietor shall have the OSD and SQIDS inspected annually by a competent person.
- c) The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all pits, pipelines, trench barriers, filter baskets and other structures in or upon the said land which comprise the OSD and SQIDS or which convey stormwater from the said land; and recover the costs of any such works from the proprietor.
- d) The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the OSD and SQIDS, or failure to clean, maintain and repair the OSD and SQIDS.

The proprietor or successor shall bear all costs associated in the preparation of the subject 88E instrument. Proof of registration with NSW Land and Property Information shall be submitted to and approved by the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

68. Prior to the issue of any Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including tree planting, have been undertaken in accordance with the approved plan(s) and conditions of consent. A copy of an active Landscape

management plan/contract for the maintenance of the landscaping for a period of not less than two years after the installation is to be provided prior to the issue of the Occupation Certificate.

69. Prior to the issue of any Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious weed species and planting of canopy trees, have been undertaken in accordance with the approved landscape plan and/or conditions of Development Consent.
70. An Occupation Certificate must be obtained prior to any use or occupation of the development or part thereof. The Principal Certifying Authority must ensure that all works are completed in accordance with this consent including all conditions.
71. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that all works have been completed in accordance with the approved Waste Management Plan referred to in this development consent.

Proof of actual destination of demolition and construction waste shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

72. Prior to the release of an Occupation Certificate, the Principal Certifying Authority must be satisfied that the development complies with:
  - the approved plans;
  - BASIX certificate (where relevant),
  - approved documentation (as referenced in this consent); and
  - conditions of this consent.

#### ONGOING CONDITIONS OF CONSENT

73. The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within seventy-two (72) hours of its application.
74. Any lighting of the premises shall be installed and maintained in accordance with Australian Standard AS 4282-1997: *Control of the Obtrusive Effects of Outdoor Lighting* so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if in the opinion of an Authorised Council Officer it is considered there to be have adverse effects on the amenity of the area.
75. The canopy replenishment trees required by this consent are to be maintained in a healthy and vigorous condition until they attain a height of 6 metres whereby they will be protected by Council's Tree Management Controls. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species within 2 months.
76. The Operation and Management Plan for the on site detention facilities and stormwater quality improvement devices, approved with the Occupation Certificate, shall be implemented and kept in a suitable location on site at all times.
77. The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor shall complete an application for 'Application for Construction of Vehicle Crossing and Public Domain Works – Step 2' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.
78. All vehicles shall enter and exit the site in a forward direction.

79. A notice shall be clearly displayed at the Fredbert Street and Wharf Road frontages to indicate that two visitor parking areas are available within the property with access from Fredbert Street and the other with access from Wharf Road.
80. Access to the basement by service vehicles, including all garage vehicles, is to be via Wharf Road and the adjacent University carpark. If access arrangements with the University are not able to proceed or are discontinued then service access including garage collection is to be carried out via Wharf Road and not via Fredbert Street.
81. Any heavy vehicle or truck movements to and from the site during the construction period or on going operation of the site are to be restricted to via Wharf Road.
82. The use of the premises shall not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the Protection of the Environment Operations Act 1997 and Regulations. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage other premises.
83. To ensure minimal impacts on surrounding properties commercial waste and recyclable material generated by the premises must not be collected between the hours 10pm and 7am.
84. Suitably constructed waste disposal containers with securely fitting lids must be kept on the property for the storage of any clinical, contaminated or related waste prior to the final disposal of the material at a facility approved by the Environmental Protection Authority.
85. The premises shall not be used for any purpose other than that stated in the Development Application, i.e. Residential care facility without the prior consent of the Council unless the change to another use is permitted as exempt or complying development under *Leichhardt Local Environment Plan 2013* or *State Environmental Planning policy (Exempt and Complying Codes) 2008*.  
  
The use of the premises as a *residential care facility*, is defined under the *Leichhardt Local Environmental Plan 2013*.
86. The off-street car parking spaces are to be used in accordance to the allocated parking arrangements in condition 59.

## PRESCRIBED CONDITIONS

### A. BASIX Commitments

Under clause 97A of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled. The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

In this condition:

- a) Relevant BASIX Certificate means:
  - i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 4.55 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
  - ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and

- b) BASIX Certificate has the meaning given to that term in the Environmental Planning & Assessment Regulation 2000.

**B. Building Code of Australia**

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

**C. Home Building Act**

- 1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) must not be carried out unless the Principal Certifying Authority for the development to which the work relates has given Leichhardt Council written notice of the following:
  - a) in the case of work for which a principal contractor is required to be appointed:
    - i) the name and licence number of the principal contractor, and
    - ii) the name of the insurer by which the work is insured under Part 6 of that Act, or
  - b) in the case of work to be done by an owner-builder:
    - i) the name of the owner-builder, and
    - ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- 2) If arrangements for doing residential building work are changed while the work is in progress so that the information submitted to Council is 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.

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

**D. Site Sign**

- 1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - a) stating that unauthorised entry to the work site is prohibited;
  - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
  - c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- 2) Any such sign must be maintained while to building work or demolition work is being carried out, but must be removed when the work has been completed.

**E. Condition relating to shoring and adequacy of adjoining property**

- 1) For the purposes of section 4.17(11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - a) protect and support the adjoining premises from possible damage from the excavation, and
  - b) where necessary, underpin the adjoining premises to prevent any such damage.
- 2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

**NOTES**

1. This Determination Notice operates or becomes effective from the endorsed date of consent.
2. Section 8.2 of the *Environmental Planning and Assessment Act 1979* provides for an applicant to request Council to review its determination. This does not apply to applications made on behalf of the Crown, designated development or a complying development certificate. The request for review must be made within six (6) months of the date of determination or prior to an appeal being heard by the Land and Environment Court. Furthermore, Council has no power to determine a review after the expiration of these periods. A decision on a review may not be further reviewed under Section 8.2.
3. If you are unsatisfied with this determination, Section 8.7 of the *Environmental Planning and Assessment Act 1979* gives you the right of appeal to the Land and Environment Court within six (6) months of the determination date.
4. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.
5. Works or activities other than those approved by this Development Consent will require the submission of a new development application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.
6. This decision does not ensure compliance with the *Disability Discrimination Act 1992*. Applicants should investigate their potential for liability under that Act.
7. This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):
  - a) Application for any activity under that Act, including any erection of a hoarding.
  - b) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*.
  - c) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*.
  - d) Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.



- e) Application for Strata Title Subdivision if strata title subdivision of the development is proposed.
  - f) Development Application for demolition if demolition is not approved by this consent.
  - g) Development Application for subdivision if consent for subdivision is not granted by this consent.
  - h) An application under the Roads Act 1993 for any footpath / public road occupation. A lease fee is payable for all occupations.
8. Prior to the issue of the Construction Certificate, the applicant must make contact with all relevant utility providers (such as Sydney Water, Energy Australia etc) whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained.

**Have you made a political donation?**

If you (or an associate) have made a political donation or given a gift to a Councillor, political party or candidate at the local government elections during the last two (2) years you may need to include with your application a full disclosure of this matter. For information go to Council's website at [www.leichhardt.nsw.gov.au/Political-Donations.html](http://www.leichhardt.nsw.gov.au/Political-Donations.html). If you have made a reportable donation, failure to provide a completed declaration with your application is an offence under the Environmental Planning and Assessment Act, 1979 for which you may be prosecuted.

Attachment B – Plans of proposed development





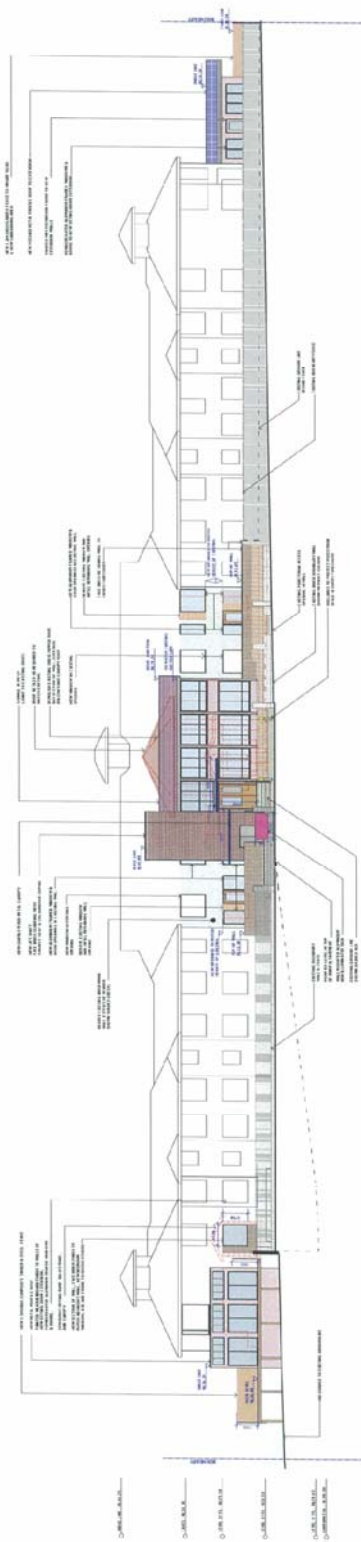
**LEVEL 2 & 3**  
**SITE PLAN**  
 D10316

UNIFYING ARCHITECTURE & INTERIOR DESIGN  
 10/100 WARE ROAD, SYDNEY NSW 1585  
 TEL: 02 9550 1000  
 WWW.UNIFYINGARCHITECTURE.COM.AU

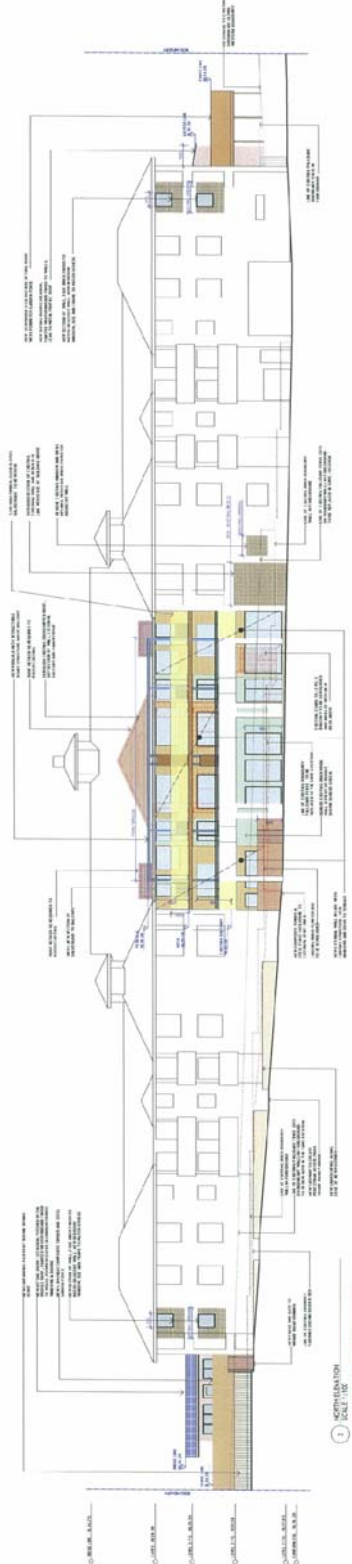
DRAWING BETWEEN 3 - CHAIRMAN BELIEVE  
 HIGHLIGHTED AREAS ARE AT TOP OF PRINTED PLAN  
 ARE NOT TO BE CONSIDERED AS PART OF THE PROJECT  
 THIS DRAWING IS THE PROPERTY OF UNIFYING ARCHITECTURE & INTERIOR DESIGN  
 NO PART OF THIS DRAWING IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS  
 WITHOUT THE WRITTEN PERMISSION OF UNIFYING ARCHITECTURE & INTERIOR DESIGN

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4	ISSUED FOR PERMIT	10/10/2023	[Signature]	[Signature]
5	ISSUED FOR PERMIT	10/10/2023	[Signature]	[Signature]





1 NORTH ELEVATION  
 DRAWING NUMBER - UNBROKEN BOLLING  
 RESULT OF RATED LANDSCAPE AND AT WESTERN ARCHITECTURE  
 FOR THE PROPOSED DEVELOPMENT OF THE WESTERN ARCHITECTURE  
 FOR THE PROPOSED DEVELOPMENT OF THE WESTERN ARCHITECTURE

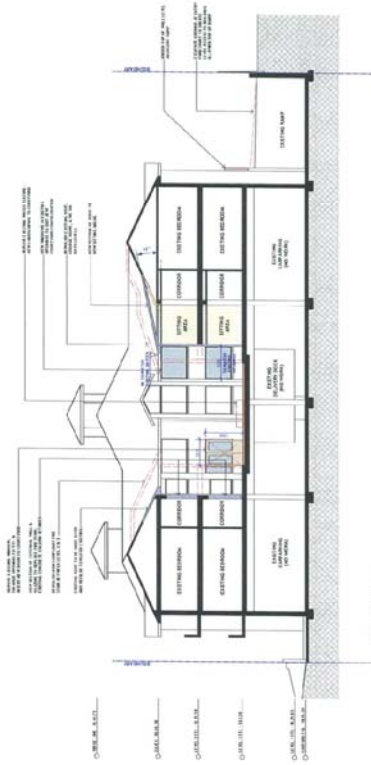


1 SOUTH ELEVATION  
 DRAWING NUMBER - UNBROKEN BOLLING  
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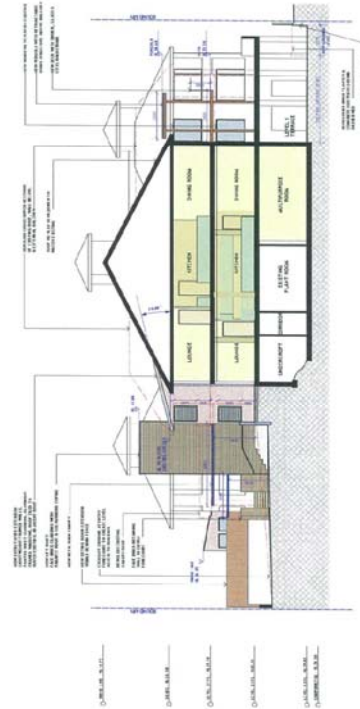
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4	WOOD
5	ROOF
6	PAINT
7	IRON
8	STEEL
9	ALUMINUM
10	COPPER
11	ZINC
12	LEAD
13	SILVER
14	GOLD
15	PLATINUM
16	PALLADIUM
17	RHODIUM
18	IRIDIUM
19	OSMIUM
20	COBALT
21	NICKEL
22	COPPER
23	ZINC
24	ALUMINUM
25	IRON
26	STEEL
27	CONCRETE
28	BRICK
29	GLASS
30	WOOD
31	ROOF
32	PAINT
33	IRON
34	STEEL
35	ALUMINUM
36	COPPER
37	ZINC
38	LEAD
39	SILVER
40	GOLD
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42	PALLADIUM
43	RHODIUM
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97	OSMIUM
98	COBALT
99	NICKEL
100	COPPER

UNIFING  
 ELEVATIONS  
 04/03/16

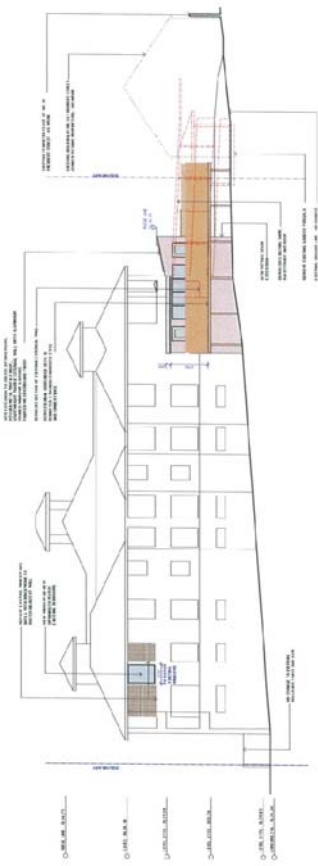




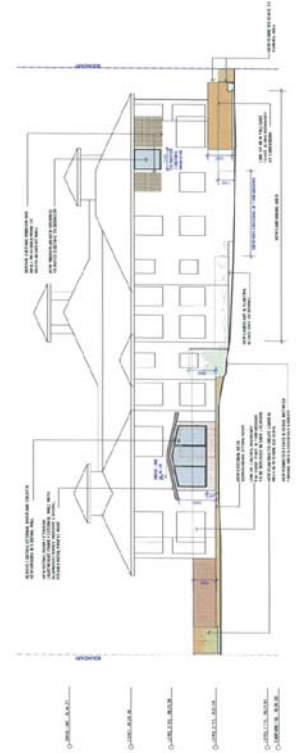
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SOUTH ELEVATION  
DRAWING REVISIONS - CHANGE A: WELL  
REVISION B: TOP OF ROOF ALTERED  
REVISION C: ROOF TRUSSES & GUTTERS



**SECTION A**  
SOUTH ELEVATION  
DRAWING REVISIONS - CHANGE A: WELL  
REVISION B: TOP OF ROOF ALTERED  
REVISION C: ROOF TRUSSES & GUTTERS



**SECTION B**  
WEST ELEVATION  
DRAWING REVISIONS - CHANGE A: WELL  
REVISION B: POSITION OF RAMP LANEZARE HAS OUTSIDE SETTING  
REVISION C: INCLUDE IN SIZE OF WINDOW MARK  
REVISION D: GUTTERS & DOWNPIPES



**SECTION A**  
WEST ELEVATION  
DRAWING REVISIONS - CHANGE A: WELL  
REVISION B: POSITION OF RAMP LANEZARE HAS OUTSIDE SETTING  
REVISION C: INCLUDE IN SIZE OF WINDOW MARK  
REVISION D: GUTTERS & DOWNPIPES

MATERIALS SCHEDULE	
1	CONCRETE WALLS
2	BRICK WALLS
3	CEMENT RENDER
4	GLAZED ALUMINIUM WINDOW
5	GLAZED ALUMINIUM DOOR
6	GLAZED ALUMINIUM SKYLIGHT
7	GLAZED ALUMINIUM GUTTER
8	GLAZED ALUMINIUM DOWNPIPE
9	GLAZED ALUMINIUM ROOF TRUSS
10	GLAZED ALUMINIUM ROOF TRUSS
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18	GLAZED ALUMINIUM ROOF TRUSS
19	GLAZED ALUMINIUM ROOF TRUSS
20	GLAZED ALUMINIUM ROOF TRUSS

**Uniting**

Architectural Services  
100/102 Victoria Street  
Sydney NSW 2000  
Tel: (02) 9232 1000  
Fax: (02) 9232 1001  
www.uniting.com.au

**ELEVATIONS & SECTIONS**

DA06/4

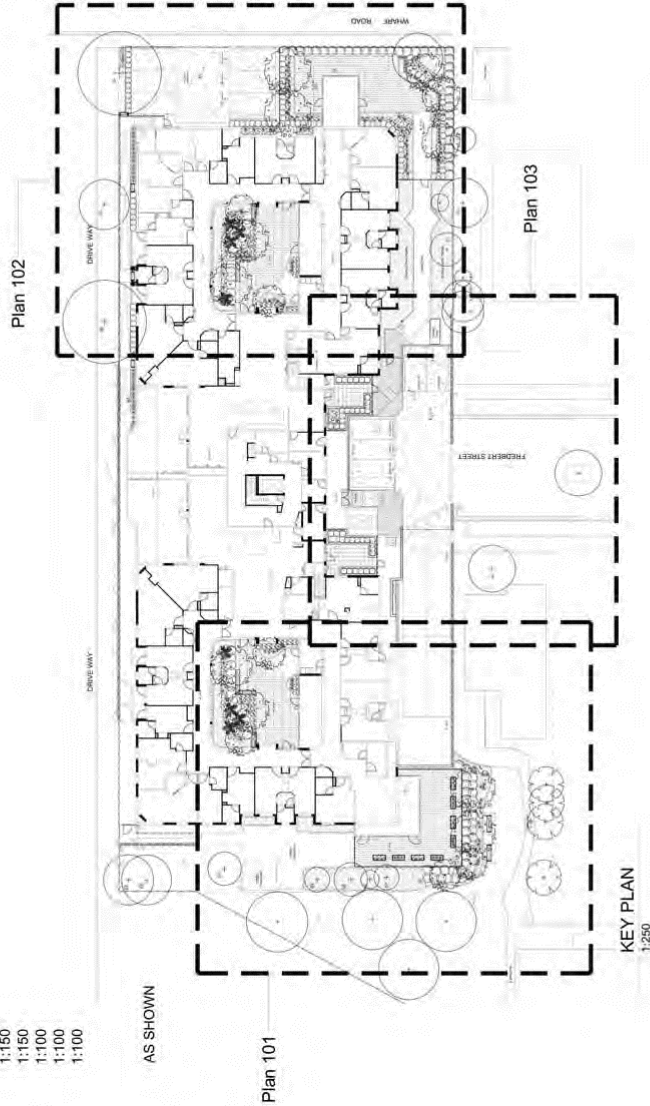
# UNITING - ALDRERGATE HOUSE RESIDENTIAL AGED CARE FACILITY

1 WHARF RD, LILYFIELD NSW 2040

## Development Application

### DRAWINGS

DWG NO.	DRAWING TITLE	SCALE
000	COVER SHEET	
C100	COLOUR LANDSCAPE MASTERPLAN	1:150
001	TREE MANAGEMENT PLAN	1:150
100	LANDSCAPE MASTERPLAN	1:150
101	LANDSCAPE PLAN (West)	1:100
102	LANDSCAPE PLAN (East)	1:100
103	LANDSCAPE PLAN (Entry)	1:100
501	LANDSCAPE SPECIFICATIONS & PLANTING SCHEDULE	AS SHOWN
502	LANDSCAPE DETAILS	



**NOT FOR CONSTRUCTION**

**LEGEND**

100% Proposed  
 50% Proposed  
 25% Proposed  
 10% Proposed  
 5% Proposed  
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**STAMP**

Uniting  
 Constructive Dialogue Architects  
 Uniting Aldersgate Lilyfield  
 16 Fredbert St. Lilyfield NSW 2040

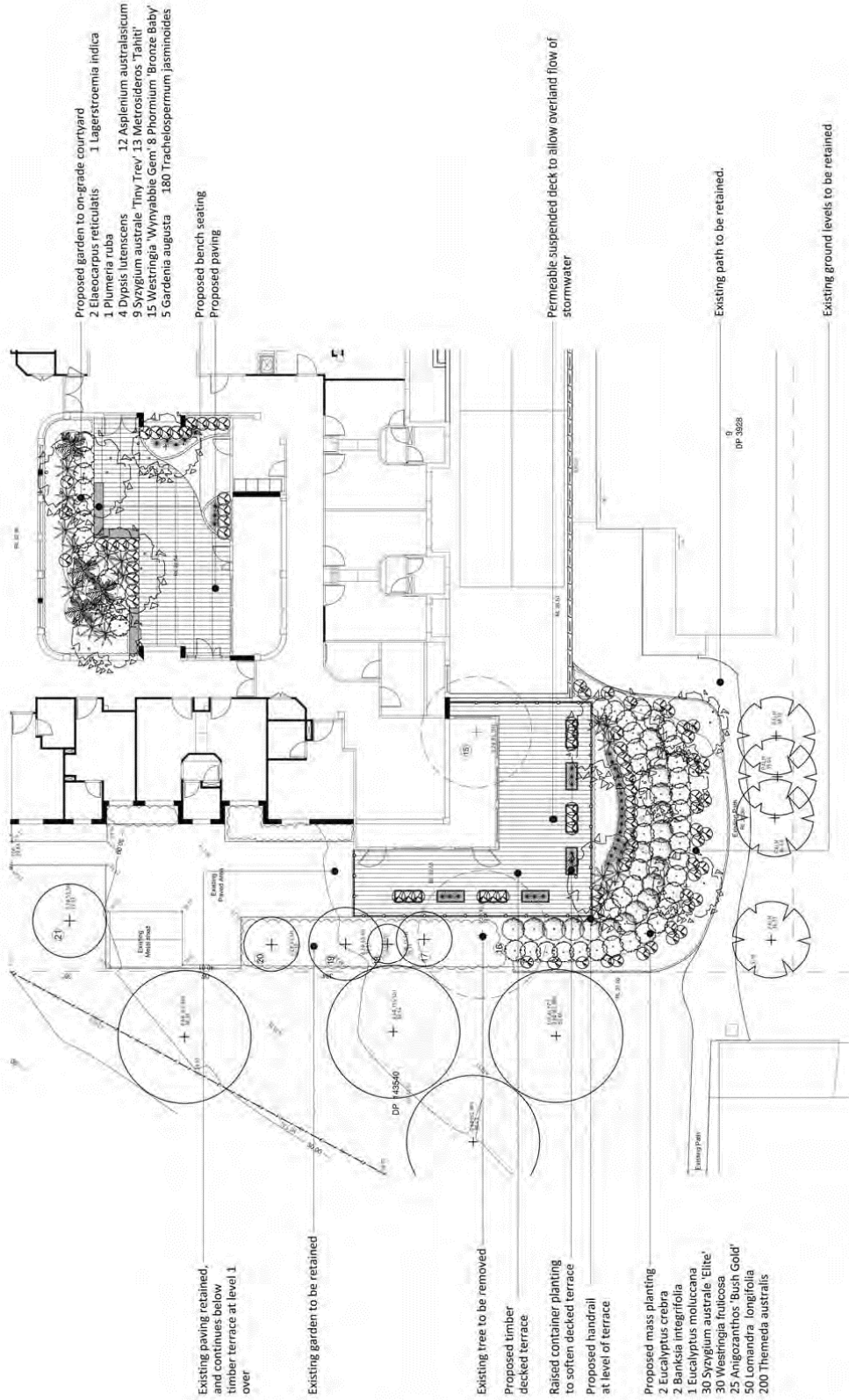
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 DEVELOPMENT APPLICATION  
 SS17-3620  
 000 D







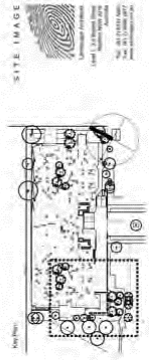
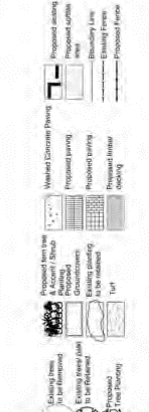




**NOT FOR CONSTRUCTION**

This drawing shall (where not specified) be read in conjunction with the following documents:

- 1. All relevant Council documents, including the Local Environmental Plan, Development Control Plan, and any other relevant Council documents.
- 2. All relevant Council documents, including the Local Environmental Plan, Development Control Plan, and any other relevant Council documents.
- 3. All relevant Council documents, including the Local Environmental Plan, Development Control Plan, and any other relevant Council documents.
- 4. All relevant Council documents, including the Local Environmental Plan, Development Control Plan, and any other relevant Council documents.
- 5. All relevant Council documents, including the Local Environmental Plan, Development Control Plan, and any other relevant Council documents.



**Uniting**  
 Constructive Dialogue Architects  
 Uniting Atergate Lilyfield  
 18 Fredrick St. Lilyfield NSW 2040

**Landscape Plan (West)**  
 DEVELOPMENT APPLICATION  
 Scale: 1:100 @ A1  
 SS17-3620  
 101 D







SS17-3620 Aldersgate House Lilyfield Indicative Plant Schedule

Table with columns: Symbol, Botanical Name, Common Name, Mature size (H x W (m)), Pot size, Spacing / Density. Rows include various trees like Algorophya costata, Alphitonia australis, and various shrubs.

Note: Quantity as shown on plan, subject to final labels & quantity in landscape documentation stage.

IRRIGATION

- All proposed landscape areas shall be irrigated. In windy weather, and immediately after rain, if necessary, irrigation systems should be checked. Irrigation systems should be designed to ensure that the plants receive the required amount of water to maintain healthy and vigorous growth.

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Plant replacement - Replace plants that have failed to mature, die or are damaged. Replace plants that are damaged or missing and of a different species or variety to the plant that has failed.

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NOT FOR CONSTRUCTION

NOT FOR CONSTRUCTION. This drawing is for informational purposes only and is not to be used for construction. It is subject to change without notice.

Legend table with columns: Symbol, Description. Includes symbols for trees, shrubs, and groundcover.

Project information: SS17-3620 Aldersgate House Lilyfield. Includes logos for the Council and the Planning Panel.

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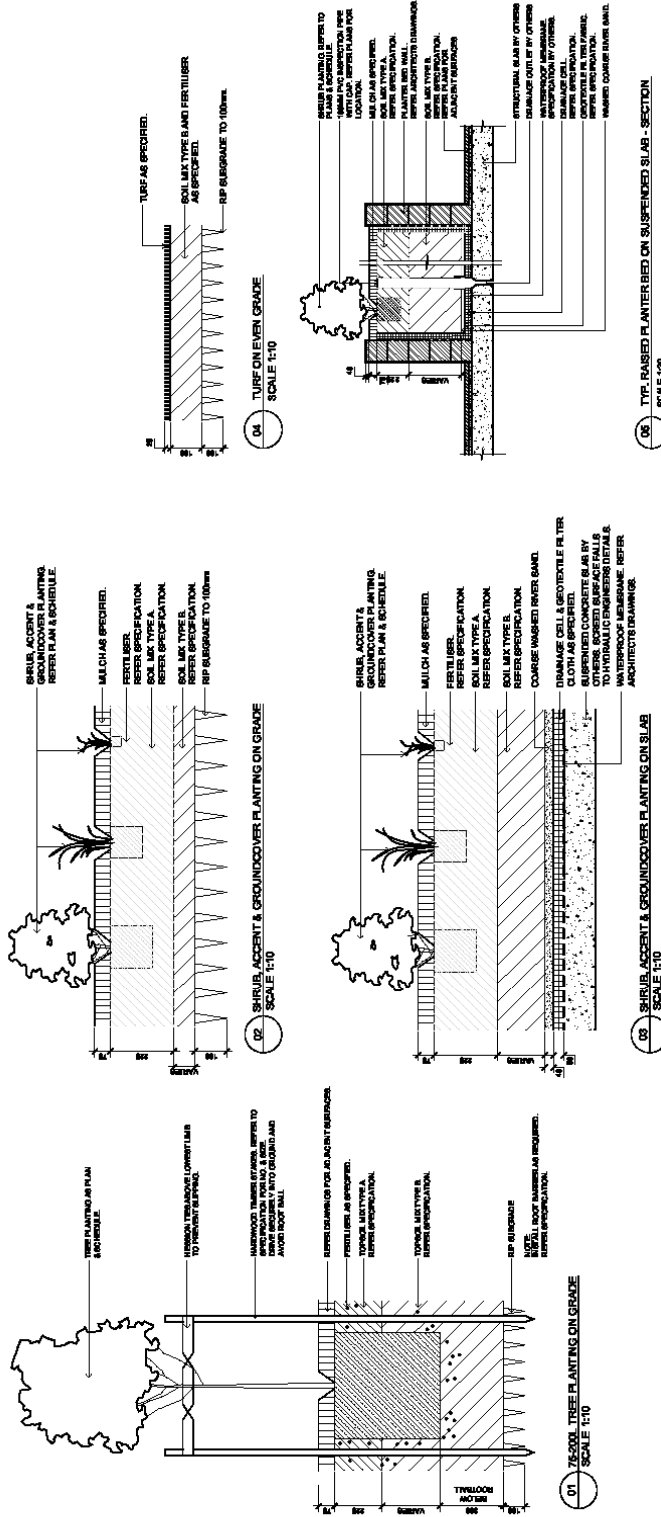
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**NOT FOR CONSTRUCTION**

**LEGEND**

1:1	1:2	1:3	1:4	1:5	1:6	1:7	1:8	1:9	1:10
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1:981 - 1:990  
1:991 - 1:1000

**CLIENT**  
Unifit

**ARCHITECT**  
Constructive Dialogue Architects

**PROJECT**  
Unifit Aidspace Lilyfield  
18 Fredrick St. Lilyfield NSW 2040

**DATE**  
10/10/2022

**SCALE**  
1:10

**PROJECT NUMBER**  
SS17-3620

**DATE**  
9/02/20





CIVIL ENGINEERING WORKS



Sheet List Table	
Sheet Number	Sheet Title
C-1000-01	COVER PAGE
C-1000-02	GENERAL NOTES
C-1000-03	EROSION AND SEDIMENT CONTROL PLAN
C-1000-04	EROSION AND SEDIMENT CONTROL DETAILS
C-1000-05	STORMWATER DRAINAGE PLAN - GROUND FLOOR
C-1000-06	STORMWATER DRAINAGE DETAILS - SHEET 01
C-1000-07	STORMWATER DRAINAGE DETAILS - SHEET 02



UNITING CARE AGEING

CLIENT

UNITING ALDERSGATE RESIDENTIAL AGED CARE, LILYFIELD

PROJECT



WOOD & ORVILLE ENGINEERS

33471

PROJECT NO

C1-000-01

DRAWING NO

C

REV

**GENERAL NOTES**

1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT AND OTHER AGENCIES PRIOR TO THE COMMENCEMENT OF WORK.

2. ALL DIMENSIONS ARE UNLESS OTHERWISE SPECIFIED.

3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT AND OTHER AGENCIES PRIOR TO THE COMMENCEMENT OF WORK.

4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT AND OTHER AGENCIES PRIOR TO THE COMMENCEMENT OF WORK.

5. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT AND OTHER AGENCIES PRIOR TO THE COMMENCEMENT OF WORK.

**STORMWATER NOTES**

1. ALL CONCRETE PAVEMENT SHALL BE REINFORCED CONCRETE CLASS IV.

2. ALL CONCRETE SHALL BE CAST IN PLACE.

3. ALL CONCRETE SHALL BE FINISHED TO A FINISH GRADE OF 1:100.

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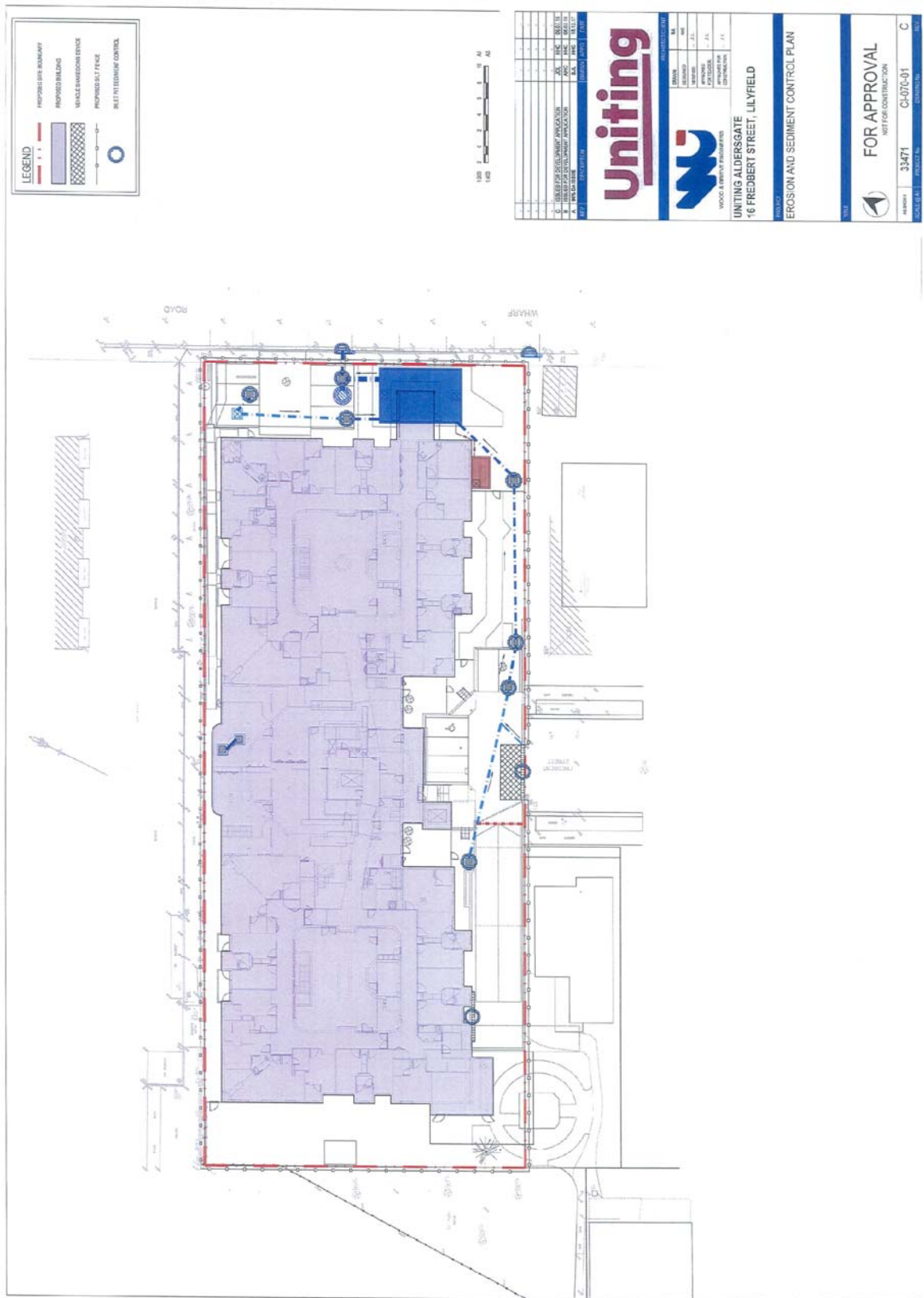
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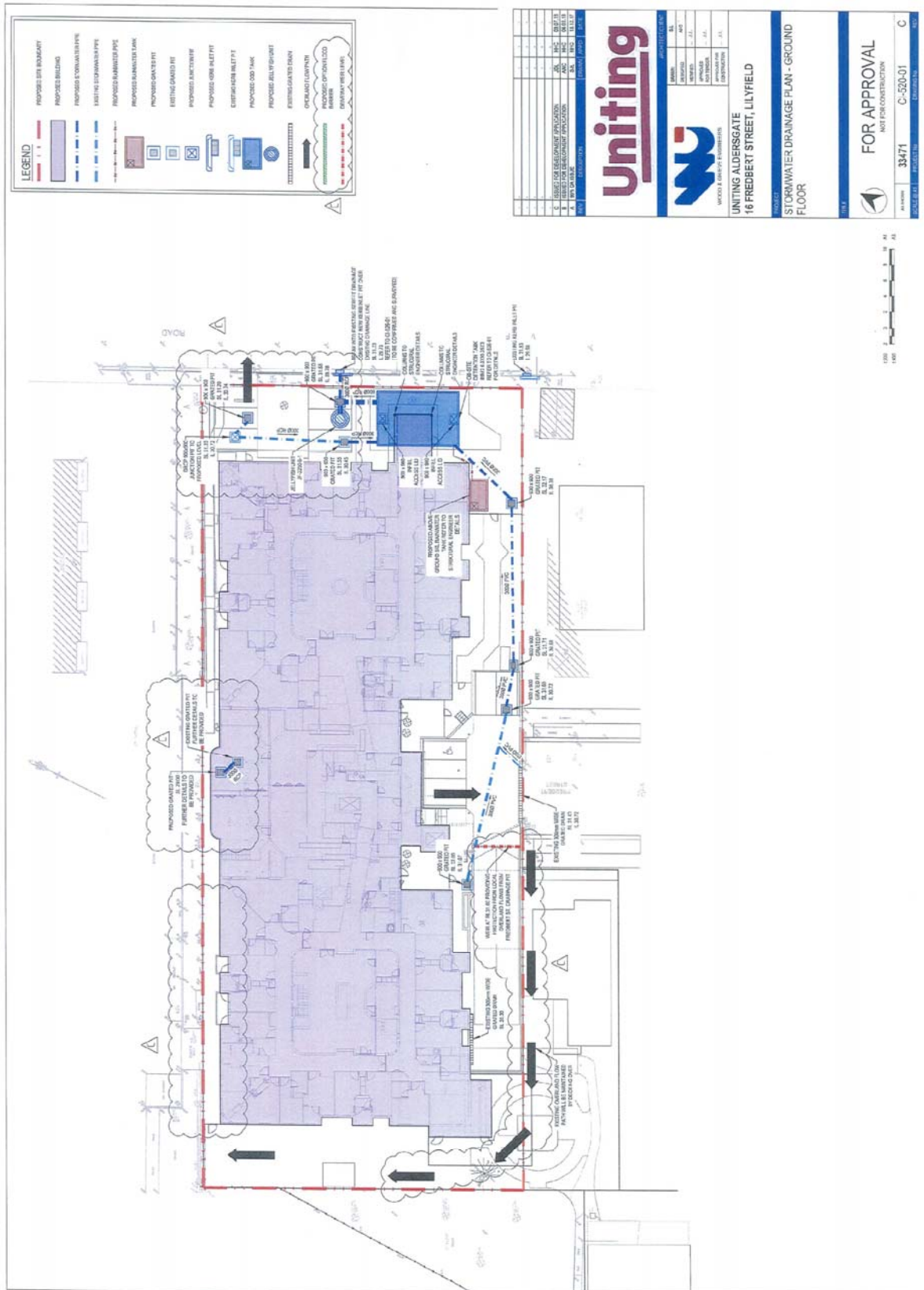
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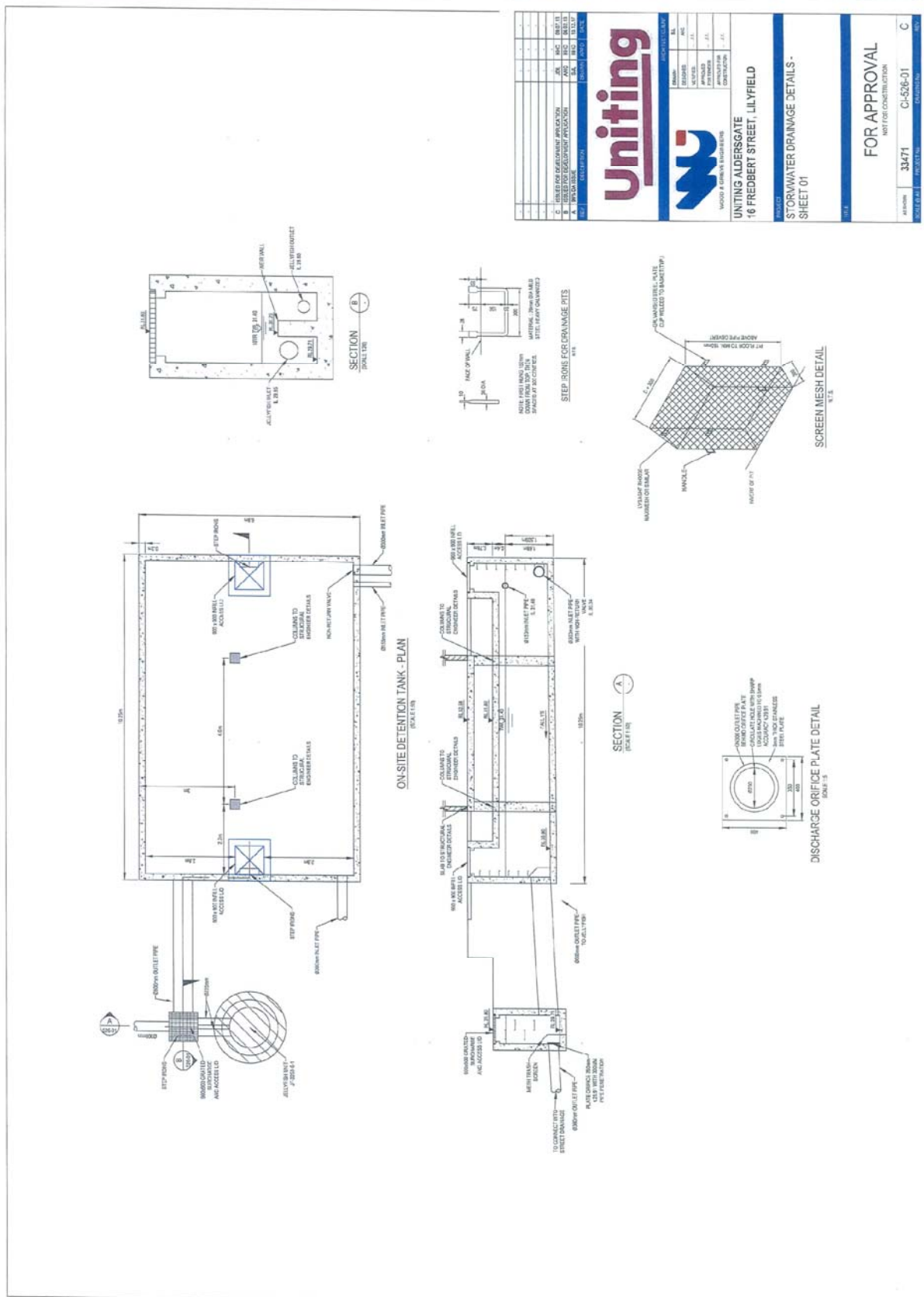
	
UNITING ALDERSGATE 16 FREDBERT STREET, LILYFIELD	
GENERAL NOTES	
<b>FOR APPROVAL</b> INTERNAL CONSTRUCTION	
PROJECT NO: 33471	DRAWING NO: C

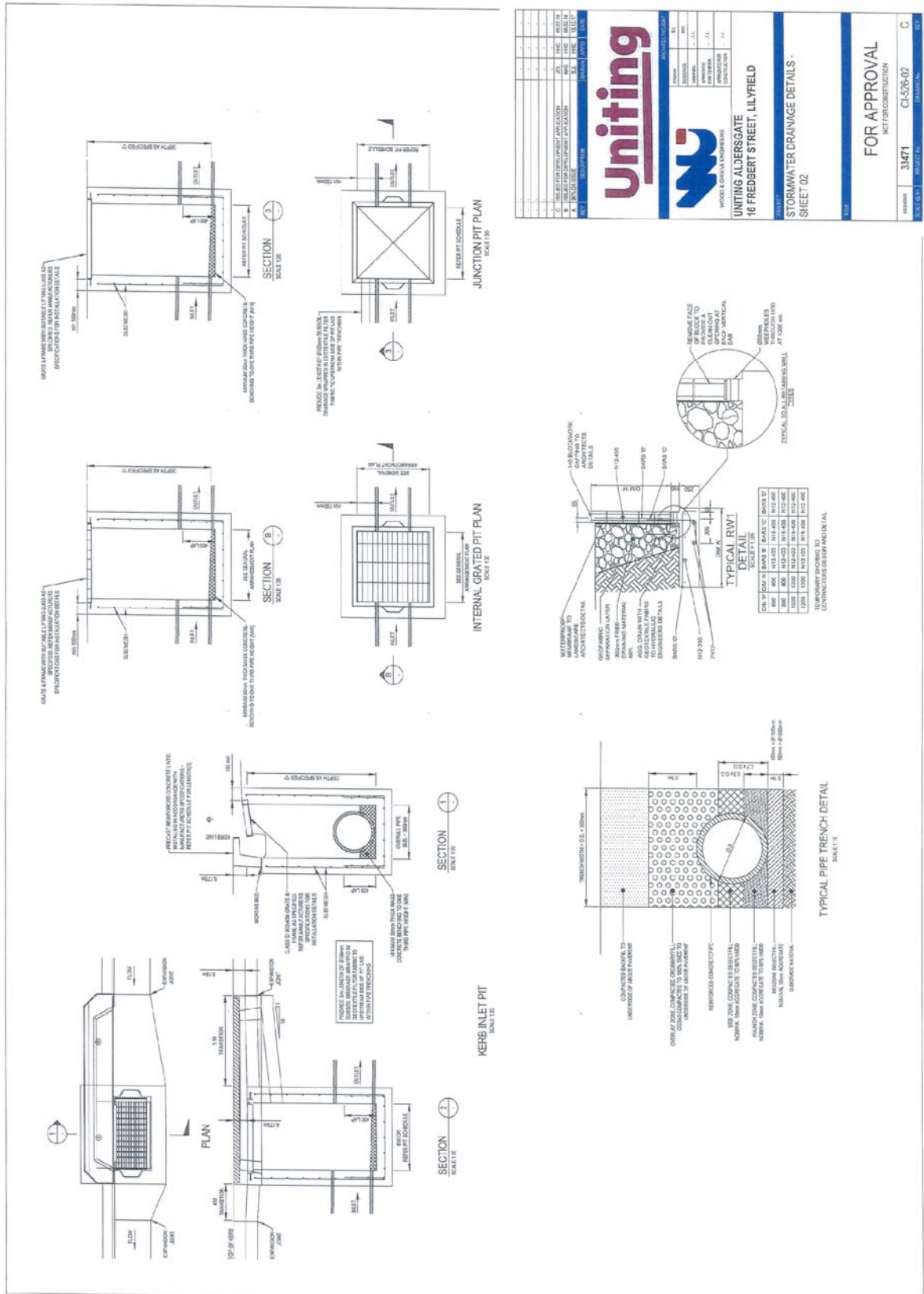












**Attachment B – Clause 4.6 Exception to Development Standards**



**WRITTEN REQUEST PREPARED PURSUANT TO  
CLAUSE 4.6 OF THE LEICHHARDT LOCAL  
ENVIRONMENTAL PLAN 2013 IN RELATION TO A  
VARIATION SOUGHT TO THE MAXIMUM FLOOR  
SPACE RATIO DEVELOPMENT STANDARD**

**Submitted in Support of a Development Application  
for Alterations and Additions to Uniting Aldersgate  
Aged Care Home at No 16 Fredbert Street, Lilyfield**

Prepared for

The Uniting Church in Australia Property Trust (NSW)

By

BBC Consulting Planners

Job No. 18-084  
Clause 4.6 Variation Request  
September 2018

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## 1. Introduction

### 1.1 Overview

This Clause 4.6 written request has been prepared in support of a development application ("the DA") lodged on behalf of The Uniting Church in Australia Property Trust (NSW) ("Uniting") to the Inner West Council ("Council") pursuant to Section 78A (now Section 4.12) of the Environmental Planning and Assessment Act 1979 ("the EP&A Act") for alterations and additions to the Uniting Aldersgate residential care facility ("the proposal") at No 16 Fredbert Street, Lilyfield ("the site"). The proposed alterations and additions comprise works to the main entrance to provide a new foyer, entry steps, drop-off zone, and entrance lift, internal refurbishment works to Levels 1, 2 and 3, external built extensions to Level 2 (to accommodate two new sitting rooms), new at-grade car parking, two new fire stairs and lifts, upgrades and extensions to the external terraces and resident outdoor areas, and associated works such as landscaping, tree removal, site services, and stormwater detention. The proposal is described and assessed in the Statement of Environmental Effects ("SEE").

Development consent for the proposal is sought pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 ("the Seniors Housing SEPP").

The primary objectives of the proposed development are:-

- to transition the facility from its current traditional nursing home configuration and operation to a contemporary aging-in-place model of care characterised by domestic households (with smaller groups of residents sharing homelike living spaces);
- to redevelop the site in a manner that is compatible with the amenity of the locality;
- to deliver highly attractive, well-designed, high-amenity refurbishment works with improved support services for frail aged and people living with disabilities; and
- to meet growing needs for contemporary aged care services in the Inner West region.

This Clause 4.6 written request has been prepared to support the proposal in relation to a non-compliance with the maximum floor space ratio (FSR) development standard expressed in Clause 4.4 of Leichhardt Local Environmental Plan 2013 ("the LEP"). Pursuant to Clause 4.4 ('Floor space ratio'), the site is subject to a maximum FSR of 0.5:1. Clause 4.4(2B) provides that the FSR for development of residential accommodation must not exceed 0.6:1.

As described in the accompanying SEE, the development has a resultant FSR of 1.05:1.

LEP Clause 4.6 ('Exceptions to development standards') allows development consent to be granted for development where it contravenes a development standard imposed by the LEP or another environmental planning instrument, in this instance the Clause 4.4 FSR control.

The objectives of Clause 4.6 of the Leichhardt LEP are:-

- "(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances."*

This written request addresses the requirements of Clause 4.6.



## 1.2 Principles and Relevant Authorities

The principles and relevant authorities which have been considered in the preparation of this Clause 4.6 variation request are those found in:

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



## 2. Clause 4.4 of the Leichhardt LEP 2013

Clause 4.4 ('Floor space ratio') of the Leichhardt LEP 2013 provides (as relevant):

- "(1) *The objectives of this clause are as follows:*
- (a) *to ensure that residential accommodation:*
    - (i) *is compatible with the desired future character of the area in relation to building bulk, form and scale, and*
    - (ii) *provides a suitable balance between landscaped areas and the built form, and*
    - (iii) *minimises the impact of the bulk and scale of buildings,*
  - (b) *to ensure that non-residential development is compatible with the desired future character of the area in relation to building bulk, form and scale.*
- (2) *The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*
- (2A) *Despite subclause (2), the floor space ratio for development for a purpose other than residential accommodation on land in Zone R1 General Residential is not to exceed 1:1.*
- (2B) *Despite subclause (2), the floor space ratio for development for the purpose of residential accommodation:*
- (a) *on land shown edged black or pink on the Floor Space Ratio Map is not to exceed:*
    - ...
    - (iv) *in the case of development on a lot with an area of 450 square metres or more—0.6:1"*

Pursuant to Clause 4.4, the site is subject to a maximum floor space ratio (FSR) of 0.5:1. Under Clause 4.4(2B), the site is within land shown edged pink on the Floor Space Ratio Map and has a lot with an area that exceeds 450 square metres; therefore the maximum FSR for development for the purposes of residential accommodation is not to exceed 0.6:1.

For the purposes of calculating GFA and FSR, the site is taken to be the main allotment on which the existing residential care facility is located (being Lot 1 in DP 1131674). Whilst No 16 Fredbert Street (Lot 9 in Deposited Plan 3928) forms part of the development application site, this adjoining land is excluded from the calculation and assessment of GFA and FSR.

As a result of the proposal, the total GFA on Lot 1 in DP 1131674 will increase from 3,923 sqm (as existing) to 4,253 sqm (as proposed) (this represents an 8% GFA increase). The new GFA comprises 367 sqm at Level 1, 1,973 sqm at Level 2, and 1,913 sqm at Level 3. In this regard, calculated against the site area of the lot containing the care facility (Lot 1 in DP 1131674) being 4,048.4 sqm, the proposed GFA of 4,253 sqm equates to an FSR of 1.05:1.

Accordingly, the proposal contravenes the maximum FSR pursuant to Clause 4.4(2B).



### 3. Clause 4.6 of the Leichhardt LEP 2013

Clause 4.6 ('Exceptions to development standards') of the LEP provides (as relevant):

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
    - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
  - (b) *the concurrence of the Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Secretary must consider:*
- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
  - (b) *the public benefit of maintaining the development standard, and*
  - (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence."*

The provisions of Clause 4.6 can be used to vary (to the extent required) a development standard imposed by the LEP or any other environmental planning instrument, in this instance the maximum floor space ratio development standard under Clause 4.4 of the LEP.

The matters raised above are addressed below in **Section 4** of this submission.



**4. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case and are there sufficient planning grounds to justify contravening the standard?**

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

Clause 15 of the Seniors Housing SEPP allows development on land zoned primarily for urban purposes for the purpose of any form of seniors housing despite provisions of any other environmental planning instrument if the development is carried out in accordance with the SEPP. Where seniors housing is permissible under both the SEPP and the relevant LEP (in this instance Leichhardt LEP 2013), an applicant can choose the instrument under which consent is sought. Uniting seeks development consent for the proposed development under the provisions of the Seniors Housing SEPP; therefore the SEPP prevails to the extent of any inconsistency. The SEPP does not specify a maximum FSR limit for the development. In the circumstances, it is clear that the SEPP does not intend to impose a maximum FSR limit and therefore the application of a maximum FSR limit (merely because one is provided for in Clause 4.4 of the LEP) would be an 'inconsistency'. In this regard, the proposal's non-compliance with the LEP FSR development standard cannot be used a ground for refusal.

Clause 2 of the Seniors Housing SEPP establishes the following aims of the Policy:

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

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

The proposed development is consistent with the above aims of the SEPP in that:

- it will improve existing housing provision for seniors and people with a disability;
- it makes efficient use of existing development, infrastructure, and services; and
- it is of high quality design (as detailed in the accompanying SEE).

The above aims are to be achieved by:

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



The aims of the Seniors Housing SEPP are achieved by setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in the SEPP. An express aim of the SEPP is to encourage the development of seniors housing by overriding planning controls that would prevent such development. The FSR development standard in the LEP provides that the FSR of development must not exceed that identified on the relevant maps. The view is taken that this control is inconsistent with the Seniors Housing SEPP because it mandates that consent be refused. The SEPP is specifically written to override such planning controls.

For the reason that consent is sought pursuant to the Seniors Housing SEPP, the proposal's non-compliance with the FSR control expressed in the LEP cannot be used as a ground for refusal. Notwithstanding, compliance with the FSR control is entirely unreasonable and unnecessary given the circumstances of the case for the following reasons:-

- the density, bulk, and scale of the proposed alterations and additions is appropriate in the context of the configuration, scale, and bulk of the existing facility;
- alterations and additions are primarily set within the internal footprint of the building;
- it retains the existing three storey height and only results in a minor increase in GFA;
- the external additions are minor in nature, are sympathetic to the form, scale, and design of the facility, and have negligible impacts on perceived bulk and scale; and
- the proposal is compatible with the prevailing character of Lilyfield in terms of built form and appearance and it contributes positively to the medium density environment.

#### **4.2 Are there sufficient environmental planning grounds to justify contravening the development standard?**

The contravention of the maximum floor space ratio development standard is justified on environmental planning grounds specific to this development for the reasons set out in the Statement of Environmental Effects. The non-compliance with the FSR control does not result in any significant impacts in terms of the natural environment, bulk and scale, heritage, traffic and parking, stormwater, or flooding. Further, non-compliance with the FSR control does not result in any additional detrimental impacts on the amenity of adjoining properties in terms of noise, solar access, visual intrusion, obstruction of light or air, obstruction of views, overlooking, overshadowing, visual privacy, acoustic privacy, or any other such impacts.

The proposal is consistent with the objectives and applicable development standards of the relevant environmental planning instrument (the Seniors Housing SEPP) and will result in no significant adverse environmental planning impacts. The inherent characteristics of the site, including the configuration and form of the existing facility and the surrounding land uses, make the proposal eminently suitable and justifiable on environmental planning grounds.

There is an absence of significant environmental harm associated with the non-compliance of the proposal with the maximum FSR development standard expressed in LEP Clause 4.4.

#### **4.3 Has this written request adequately addressed the matters required to be demonstrated by sub-clause (3)?**

It is considered that this request adequately addresses the matters set out in Clause 4.6(3) as required by Clause 4.6(4)(a)(i).



## 5. Is the development in the public interest?

Clause 4.6(4)(a)(ii) specifies that a development will be in the public interest if it is consistent with the objectives of the particular development standard and with the objectives for development within the zone in which the development is proposed to be carried out.

It is considered that the development will be in the public interest for the following reasons.

### 5.1 Consistency with the objectives of the standards

The objectives of Clause 4.4 (‘floor space ratio development standard are as follows:-

- “(a) to ensure that residential accommodation:
- (i) is compatible with the desired future character of the area in relation to building bulk, form and scale, and
  - (ii) provides a suitable balance between landscaped areas and the built form, and
  - (iii) minimises the impact of the bulk and scale of buildings,
- (b) to ensure that non-residential development is compatible with the desired future character of the area in relation to building bulk, form and scale.”

It is considered that the proposal satisfies objectives of Clause 4.4 in that:-

- the density, bulk, and scale of the proposed alterations and additions is appropriate in the context of the configuration, scale, and bulk of the existing facility;
- alterations and additions are primarily set within the internal footprint of the building;
- it retains the existing three storey height and only results in a minor increase in GFA;
- the external additions, being changes to the roof pitch, infill sections of the balustrade balcony and new pergola, new entrance and foyer, and new living areas, are minor in nature. These external additions are sympathetic to the form, scale, and design of the facility and have negligible impacts on perceived bulk and scale; and
- the proposal is compatible with the prevailing character of Lilyfield in terms of built form and appearance and it contributes positively to the medium density environment.

### 5.2 Consistency with the objectives of the zone

The site is zoned R1 (General Residential) pursuant to the Leichhardt Local Environmental Plan 2013. The objectives of the R1 Zone are:-

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To improve opportunities to work from home.*
- *To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*





- *To provide landscaped areas for the use and enjoyment of existing and future residents.*
- *To ensure that subdivision creates lots of regular shapes that are complementary to, and compatible with, the character, style, orientation and pattern of the surrounding area.*
- *To protect and enhance the amenity of existing and future residents and the neighbourhood."*

The proposal is consistent (to the extent relevant) with the above objectives in that:-

- it will provide for seniors housing needs in the local community;
- it will deliver improved support services and residential accommodation that meet the day-to-day needs of residents (being frail aged and people living with disabilities);
- it will redevelop the existing residential care facility in a manner that is compatible with the prevailing character, style, and pattern of surrounding buildings and streetscapes;
- it will provide generous landscape areas for the use and enjoyment by residents; and
- it will result in enhanced amenity for existing and future residents of the facility.

The public interest is best served by the orderly and economic use of land for permissible purposes in a form which is cognisant of and does not impact unreasonably on development on surrounding land, and which satisfies a market demand for contemporary seniors housing.

The proposal is in the public interest in that:

- strong community demand for contemporary aged care facilities are better satisfied;
- an increased number of single beds will be available for seniors residents of Lilyfield and the wider Leichhardt and Inner West regions;
- future residents will have excellent amenity and excellent access to high quality care;
- the facility is located in close proximity to public transport and services;
- adjoining properties and land uses will suffer no unreasonable impacts;
- new employment opportunities will be created during the construction and fit-out of the upgraded facility;
- the staff of the facility would make use of existing services and commercial facilities in the surrounding suburbs, generating spin off or multiplier effects; and
- the facility would have a significant operating budget, an element of which would be spent on local businesses and would have additional staff many of whom would shop in the local area on their way to or from work.

The proposed alterations and additions and associated refurbishment works will not result in significant adverse social impacts on existing and potential future residents of the facility nor on the wider surrounding area. The proposal will contribute to a liveable community and will foster a strong sense of community in facilitating social interaction among residents and staff.

The development is in the public interest in that it is entirely consistent with the objectives of floor space ratio development standard and with the objectives for development within the R1 (General Residential) Zone within which the development is proposed to be carried out.



## 6. CONCLUSION

For the reason that development consent is sought pursuant to the provisions of the Seniors Housing SEPP, the proposal's non-compliance with the maximum floor space ratio development standard in Clause 4.4 of Leichhardt Local Environmental Plan 2013 cannot be used as a ground for refusal. Notwithstanding, compliance with the maximum FSR control is entirely unreasonable and unnecessary given the circumstances of the proposal which seeks alterations and additions and refurbishment works to an existing residential aged care facility.

There are sufficient environmental planning grounds to justify non-compliance with Clause 4.4, and the proposal is in the public interest because it is consistent with objectives of the development standard and LEP and the relevant provisions of the Seniors Housing SEPP.

Further, in terms of consistency with the objectives of Clause 4.4, it is considered that strict adherence to the maximum floor space ratio development standard to the subject proposal is not warranted and relaxing the standard would result in a better form of development.